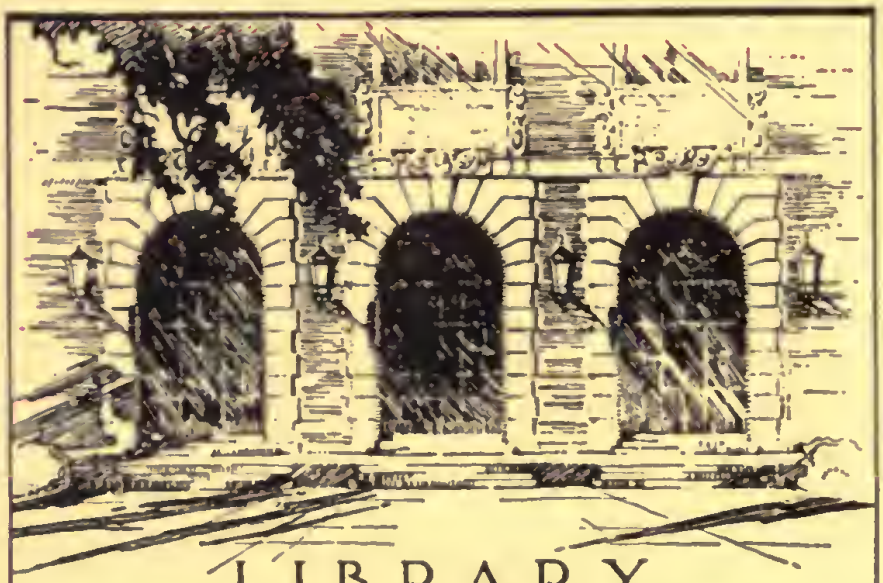
Baker in the White House
1861 see Eliz. Todd Grimsley
to John T. Stuart in Ill;

For story of Baker at Bellevue
rally see John F. Darby
Personal Recollections.
pp 445-47 also several
other p. on Baker. Copy
in Ill

Harry E. Pratt



LIBRARY
OF THE
UNIVERSITY
OF ILLINOIS

A Bequest from
Marion D. Pratt

973.71
B172m

ILLINOIS HISTORICAL SURVEY

Edgard Pinotto

San Francisco

7 December 1899

E. W. Parker

(SEE PAGE 244)

ELOQUENCE OF THE FAR WEST

No. I.

Masterpieces of E. D. Baker

EDITED

(WITH GLANCES AT THE ORATOR AND HIS TIMES)

By OSCAR T. SHUCK

AUTHOR OF "BENCH AND BAR IN CALIFORNIA"

SAN FRANCISCO

PUBLISHED BY THE EDITOR

1899

Entered according to Act of Congress, in the year 1899, by
OSCAR T. SHUCK,
In the Office of the Librarian of Congress,
at Washington.

The Murdock Press
San Francisco

973.71
B172m

Mr. JOHN W. HENDRIE,

South Beach, Connecticut.

Kind Sir:—

BAKER *was speaking on the Atlantic seaboard when he pointed across a hemisphere, back to the far Pacific,—where his notes were yet reverberating,—and modestly said that his voice was feebler than the feeblest murmur upon our shore.**

Near where he stood then, you have long rested —on the Atlantic border, after an active business career on this far strand. If the clear call of our ORATOR *did not swell above the sound of the sea, it yet touched the bounds of the continent, and is resonant still; and you are of that mass, now wide dispersed, early gathered by the Golden Gate, who hear—even now—its "echoes roll from soul to soul." Our great city, whose busy streets you walked a busy man so long ago—and some of whose cherished institutions have lately quickened at your touch—acknowledges your affectionate remembrance, and gives you greeting from afar.*

Remote, now, from our occidental life, you keep alive an exceptional concern for all that contributes to our well-being, and you have a special, imprescriptible interest in the riches of our intellectual

*See page 233.

14910 T
13 D 63
Pratt
5 D

heritage. You will love this book. I count myself happy in being able to lay it under your eye; and I do so, recognizing you as one to whom our friend's fame is dear, and in the hope that your honored name may be associated with his through coming time.

I am, Sincerely,

Your Obliged Friend, and

Obedient Servant,

THE EDITOR.

San Francisco, August 1, 1899.

PREFACE.

WHETHER at the bar, or beside the bier,—in the lecture hall, or on the stump,—at public festival, or in solemn debate—Baker spoke for Man. Freedom and Glory were the constant theme of this free and glorious spirit; we shall have a glimpse of him, however, invested with even a deeper concern—at the dedication of Lone Mountain Cemetery. His many arguments and speeches during a long career as a lawyer, or advocate, with some exceptions, lost their interest as the occasion passed. The most notable of these exceptions—the defense of Cora—has its place in this volume. As a lecturer, his best productions are lost; that is, he did not write them, and they were not reported: as The Sea, The Plurality of Worlds, Socrates, Books. His efforts of chief excellence, however, and perhaps on broader and higher platforms, were fortunately committed to type; and while these comprise but a small part of his life-work, they are yet a

great deal in themselves, and are precious. Like all the emanations of this gratifying and satisfying mind, they cast no lurid light —they are entirely untainted by anything morbid, or moody, or cynical. Healthful, hopeful, virile, prophetic, their tuition is true, and ever their burden is the advancement of his countrymen and his kind. Their perpetual influence must be salutary. It is well that his ideals, gathered now and gathered forever, should unite their beauty before the century closes that will mark his place in history.

The speeches in this Volume are given in full, except that about one fourth of the Reply to Benjamin is omitted, on account of its great length; and from the Defense of Cora much of the analysis of the evidence of witnesses has been eliminated.

Since BAKER performed his noble part, the fast-hastening years have brought their many contrasted characters on the scene, to diversify Time's drama on our western shore,—but he is SOVEREIGN. That tragic hour is far off now—when he went to his worthy rest among the great men who are

sleeping in the crypt of FAME — but his spirit will kindle the hearts of men as long as LONE MOUNTAIN shall guard his grave, or Shasta and Whitney look down upon the landscapes that he loved.

CONTENTS

	PAGES
Introductory Notice of Baker . .	9 - 12
The Atlantic Cable Address . .	13 - 36
The Ferguson Eulogy	39 - 59
The Broderick Oration	63 - 85
The American Theater Speech . .	89 - 127
The Reply to Benjamin	131 - 223
At the New York Mass-Meeting .	227 - 239
The Reply to Breckinridge . .	243 - 270
Death of Baker—His Family . .	273 - 282
Poem by Baker	283 - 284
The Defense of Cora	287 - 318
Dedication of Lone Mountain Cemetery—Immortality	321 - 330

Edward Dickinson Baker was born in London, England, February 24, 1811. His father was a man of education and literary tastes, and brought his family to America, settling in Philadelphia, when Edward was about five years old. The father taught school and apprenticed the boy at a suitable age to a weaver. In 1825 the family moved to Indiana, and, a year or so later, to Illinois. The son had no taste for systematic study, but possessed a passion for books. Going to St. Louis in early manhood, he drove a dray for one season; then returning to Illinois, he began the study of law, and, after a year had passed, he obtained a license and began practice. In 1831, he seriously thought of entering the ministry of the Reformed (or Christian) Church.

In the spring of '32 he enlisted in the Black Hawk (Indian) War and served to its close, obtaining a major's commission. He first won celebrity as a speaker by his oration at the laying of the corner-stone of the old State House in Springfield, Ill., July 4, 1837. In that year he was elected to the lower branch of the State Legislature, as a Whig, and was re-elected. In 1840, he "took the stump" for Harrison for President; was a State Senator, 1841–44. In the fall of '44, he was elected to the National House of Representatives from the Springfield district. When the Mexican War broke out he, without resigning his seat in the House, hastened home, obtained a colonel's commission and raised a regiment, which he led into the field. He was one of the comparatively few Northern Whigs who favored the war with Mexico. At

its close his State presented him with a sword. In '49 he was returned to Congress. In 1852 he removed to California, locating in San Francisco. Here he won great fame as a lawyer, lecturer, and political speaker, but not many of his speeches are preserved. In 1859 he ran for Congress on the Republican ticket but was defeated. Within a year thereafter he had removed to Oregon and was a Senator of the United States. The War of the Rebellion breaking out, he again took the field and went as a colonel into this, his third, warfare with characteristic enthusiasm. In July, 1861, he was appointed and confirmed a brigadier-general of volunteers. At his first encounter in that great conflict he fell, in his fifty-first year, October 21, 1861. After his death a commission as major-general of volunteers was issued in his

name. His remains were brought to San Francisco and laid in Lone Mountain Cemetery, among the people who had enjoyed the flower of his renown. His career is the subject of the first chapter of BENCH AND BAR IN CALIFORNIA. Edward Stanly's oration at his burial may be found in REPRESENTATIVE MEN OF THE PACIFIC, together with the address of Thos. Starr King.

Baker's picturesque career, as interwoven with great events, is further touched upon in appropriate order in the pages to follow.

THE ATLANTIC CABLE ADDRESS

The most poetic utterance of Baker's life was his address delivered in San Francisco on September 27, 1858, at the public commemoration of the laying of the Atlantic Telegraph. This immortal production is also, in the judgment of many, both more thoughtful and more ornate than even his celebrated Broderick oration. It contains the memorable apostrophe to science, and the happy allusion to the comet of that time. It is perennial. The words near the close, "We stand . . . at the entrance to a more imperial dominion," seem to express, after the lapse of forty years, a new and larger prophecy.

THE ATLANTIC CABLE ADDRESS.

AMID the general joy that thrills throughout the civilized world, we are here to bear our part. The great enterprise of the age has been accomplished. Thought has bridged the Atlantic, and cleaves its unfettered path across the sea, winged by the lightning and guarded by the billow. Though remote from the shores that first witnessed the deed, we feel the impulse and swell the pæan; for, as in the frame of man, the nervous sensibility is greatest at the extremity of the body, so we, distant dwellers on the Pacific coast, feel yet more keenly than the communities at the centers of civilization, the greatness of the present success, and the splendor of the advancing future.

The transmission of intelligence by electric forces is perhaps the most striking

of all the manifestations of human power in compelling the elements to the service of man. The history of the discovery is a monument to the sagacity, the practical observation, the inductive power of the men whose names are now immortal. The application to the uses of mankind is scarcely less wonderful, and the late extension across a vast ocean ranks its projectors and accomplishers with the benefactors of their race. We repeat here to-day the names of Franklin, and Morse, and Field. We echo the sentiments of generous pride, most felt in the commonwealth of Massachusetts, at the associated glory of her sons. But we know that this renown will spread whereever their deeds shall bless their kind; that, like their works, it will extend beyond ocean and deserts, and remain to latest generations.

The history of the Atlantic Telegraph is fortunately familiar to most of this auditory. For more than a hundred

years it has been known that the velocity of electricity was nearly instantaneous. It was found that the electricity of the clouds was identical with that produced by electric excitation; next followed the means for its creation, and the mechanism of transmission. Its concentration was found in the corrosion of metals in acids, and the use of the voltaic pile; its transmission was completed by Morse in 1843, and it was reserved to Field to guide it across the Atlantic. Here, as in all other scientific results, you find the wonder-working power of observation and induction; and nowhere in the history of man is the power of Art — *action* directed by Science — *knowledge* systematized — so signally and beautifully obvious. I leave to the gifted friend who will follow me, in his peculiar department, the appropriate description of the wonders of the deep seaway; of the silent shores beneath; of sunless caverns and submarine plains. It is for

others to describe the solitudes of the nether deep. Yet who is there whose imagination does not kindle at the idea that every thought which springs along the wires vibrates in those palaces of the ocean where the light fails to penetrate and the billows never roll?

From those dark, unfathomed caves the pearl that heaves upon the breast of beauty is dragged to the glare of day. There the unburied dead lie waiting for the resurrection morning, while above them the winds wail their perpetual requiem; there the lost treasures of India and Peru are forever hid; there the wrecks of the Armada and Trafalgar are forever whelmed.

What flags and what trophies are floating free
In the shadowy depths of the silent sea?*

But amid these scattered relics of the buried past, over shell-formed shores

*A quotation from his own poem to be found in this volume.

and wave-worn crags, the gleaming thought darts its way. Amid the monsters of the deep, amid the sporting myriads and countless armies of the sea, the single link that unites two worlds conveys the mandate of a king or the message of a lover. Of old, the Greek loved to believe that Neptune ruled the ocean and stretched his trident over the remotest surge. The fiction has become reality; but man is the monarch of the wave, and his trident is a single wire!

The scene in which we each bear a part to-day is one peculiar, it is true, to the event which we celebrate; but it is also very remarkable in many and varied aspects.

Never before has there been on the Pacific coast such an expression of popular delight. We celebrate the birthday of our nation with signal rejoicing; but vast numbers who are here to-day can find no place in its processions, and perhaps wonder at its enthusiasm; we celebrate

great victories which give new names to our history and new stars to our banner,—these are but national triumphs; but to-day the joy is universal; the procession represents the world—all creeds, all races, all languages are here; every vocation of civilized life mingles in the shout and welcomes the deed. The minister of religion sees the Bow of Promise reflected under the sea, which speaks of universal peace; the statesman perceives another lengthening avenue for the march of free principles; the magistrate here can see new guards to the rights of society and property, and a wide field for the sway of international law; the poet kindles at the dream of a great republic of letters tending toward a universal language; and the seer of science finds a pledge that individual enterprise may yet embody his discoveries in beneficent and world-wide action.

The mechanic walks with a freer step and a more conscious port, for it is his

skill which has overcome the raging sea and the stormy shore; and labor — toil-stained and sun-browned labor — claims the triumph as his own in a twofold right. First, because without patient, enduring toil, there could be neither discovery, invention, application, or extension; and again, because whatever spreads the blessings of peace and knowledge, comes home to his hearth and heart.

Surrounded then, as I am, by the representatives of all civilized nations, let me express some of the thoughts that are struggling for utterance upon your lips as you contemplate the great event of the century. Our first conviction is that the resources of the human mind and the energies of the human will are illimitable; from the time when the new philosophy of which Francis Bacon was the great exponent became firmly written in a few minds, the course of human progress has been unfettered — each established fact, each new discovery, each complete

induction is a new weapon from the armory of truth; the march cannot retrogade; the human mind will never go back; the question as to the return of barbarism is forever at rest. If England were to sink beneath the ocean, she hath planted the germ of her thought in many a fair land beside, and the tree will shadow the whole earth. If the whole population of America were to die in a day, a new migration would repeople it; not with living forms alone, but with living thought, bright streams from the fountains of all nations.

O Science, thou thought-clad leader of the company of pure and great souls, that toil for their race and love their kinds! measurer of the depths of earth and the recesses of heaven! apostle of civilization, handmaid of religion, teacher of human equality and human right, perpetual witness for the Divine wisdom — be ever, as now, the great minister of peace! Let thy starry brow and benign

front still gleam in the van of progress, brighter than the sword of the conqueror, and welcome as the light of heaven!

The commercial benefits to accrue to all nations from instantaneous communication are too apparent to permit much remark; the convenience of the merchant, the correspondence of demand and supply, the quick return of values, the more immediate apprehension of the condition of the world, are among the direct results most obvious to all men; but these are at last mere agencies for a superior good, and are but heralds of the great ameliorations to follow in the stately march.

The great enemy of commerce, and indeed of the human race, is war. Sometimes ennobling to individuals and nations, it is more frequently the offspring of a narrow nationality, and inveterate prejudice. If it enlists in its service some of the noblest qualities of the human heart, it too often perverts them to the service of a despot.

From the earliest ages a chain of mountains, or a line of a river, made men strangers, if not enemies. Whatever, therefore, opens communication and creates interchange of ideas, counteracts the sanguinary tendencies of mankind, and does its part to "beat the sword into the plowshare."

We hail, as we trust, in the event we commemorate, a happier era in the history of the world, and read in the omens attendant on its completion an augury of perpetual peace.

The spectacle which marked the moment when the cable was first dropped in the deep sea, was one of absorbing interest. Two stately ships of different and once hostile nations, bore the precious freight. Meeting in mid-ocean they exchanged the courtesies of their gallant profession — each bore the flag of St. George, each carried the flowing Stripes and blazing Stars — on each deck that martial band bowed reverently in prayer

to the Great Ruler of the tempest: exact in order, perfect in discipline, they waited the auspicious moment to seek the distant shore. Well were those noble vessels named,—the one, *Niagara*, with a force resistless as our own cataract; the other, *Agamemnon*, "the king of men," as constant in purpose, as resolute in trial, as the great leader of the Trojan war. Right well, O gallant crews, have you fulfilled your trust! Favoring were the gales and smooth the seas that bore you to the land; and oh! if the wish and prayer of the good and wise of all the earth may avail, your high and peaceful mission shall remain forever perfect, and those triumphant standards so long shadowing the earth with their glory, shall wave in united folds as long as the Homeric story shall be remembered among men,—or the thunders of Niagara reverberate above its arch of spray.

It is impossible, fellow-citizens, within such limits as the nature of this assem-

blage indicates, to portray the various modes in which the whole human race are to be impelled on the march of progress by the telegraphic union of the two nations; but I cannot forget where I stand, nor the audience I address. The Atlantic telegraph is but one link in a line of thought which is to bind the world: the next link is to unite the Atlantic and Pacific. Who doubts that this union is near at hand?* Have we no other *Fields?* Shall the skill which sounded the Atlantic not scale the Sierra Nevada? Is the rolling plain more dangerous than the rolling deep? Shall science repose upon its laurels, or achievement faint by the Atlantic shore? Let us do our part; let our energy awake! Let us be the men we were when we planted an empire. We are in the highway of commerce; let us widen the track —one effort more, and science will span

*When this union was effected, three years later, the second message sent over the wire was the announcement of Baker's fall in battle.

the world. While I speak, there comes to us, borne on every blast from the East and from the West, high tidings of civilization, toleration, and freedom. In England the Jews are restored to all the privileges of citizens, and the last step in the path of religious toleration is taken. The Emperor of Russia has decreed the emancipation of his serfs, and the first movement for civil liberty is begun. China opens her ports, and commerce and Christianity will penetrate the East. Japan sends her embassador to America, and America will return the blessings of civilization to Japan. O human heart and human hope! never before in all your history did ye so rise to the inspiration of a prophet in the majesty of your prediction!

Fellow-citizens, we have a just and generous pride in the great achievement we here commemorate. We rejoice in the manly energy, the indomitable will, that pushed it forward to success; we

admire the skillful adaptation and application of the forces of nature to the uses of mankind; we reverence the great thinkers whose observation swept through the universe of facts and events, and whose patient wisdom traced and evolved the general law. Yet, more than this, we turn with wonder and delight, to behold on every hand the results of scientific method everywhere visible and everywhere increasing; but amid that wonder and delight we turn to a still greater wonder—*the human mind itself!* Who shall now stay its progress? What shall impede its career? No longer trammeled by theories nor oppressed by the despotism of authority—grasping, at the very vestibule, the key to knowledge, its advance, though gradual, is but the more sure. It is engaged in a perpetual warfare, but its empire is perpetually enlarging. No fact is forgotten, no truth is lost, no induction falls to the ground; it is as industrious as the sun; it is as restless

as the sea; it is as universal as the race itself; it is boundless in its ambition, and irrepressible in its hope. And yet, in the very midst of the great works that mark its progress, while we behold on every hand the barriers of darkness and ignorance overthrown, and perceive the circle of knowledge continually widening, we must forever remember that man, in all his pride of scientific research, and all his power of elemental conquest, can but follow at an infinite distance the methods of the Great Designer of the Universe. His research is but the attempt to learn what nature has done or may do; his plans are but an imperfect copy of a half-seen original. He strives, and sometimes with success, to penetrate into the workshop of nature; but whether he use the sunbeam, or steam, or electricity — whether he discover a continent or a star — whether he decompose light or water — whether he fathom the depths of the ocean or the depths of the human

heart — in each and all he is but an imitation of the Great Architect and Creator of all things. We have accomplished a great work; we have diminished space to a point; we have traversed one twelfth of the circumference of our globe with a chain of thought pulsating with intelligence, and almost spiritualizing matter.

But, even while we assemble to mark the deed and rejoice at its completion, the Almighty, as if to impress us with a becoming sense of our weakness as compared with his power, has set a new signal of his reign in heaven! If to-night, fellow-citizens, you will look out from the glare of your illuminated city into the northwestern heavens, you will perceive, low down on the edge of the horizon, a bright stranger, pursuing its path across the sky. Amid the starry hosts that keep their watch, it shines attended by a brighter pomp and followed by a broader train. No living man has gazed upon its splendors before; no

watchful votary of science has traced its course for nearly ten generations. It is more than three hundred years since its approach was visible from our planet. When last it came, it startled an emperor on his throne, and while the superstition of the age taught him to perceive in its presence a herald and a doom, his pride saw in its flaming course and fiery train the announcement that his own light was about to be extinguished. In common with the lowest of his subjects, he read omens of destruction in the baleful heavens, and prepared himself for a fate which alike awaits the mightiest and the meanest. Thanks to the present condition of scientific knowledge, we read the heavens with a far clearer perception. We see in the predicted return of the rushing, blazing comet through the sky, the march of a heavenly messenger along his appointed way and around his predestined orbit. For three hundred years he has traveled amid the regions of

infinite space. "Lone wandering, but not lost," he has left behind him shining suns, blazing stars, and gleaming constellations, now nearer to the Eternal Throne, and again on the confines of the universe. He returns, with visage radiant and benign; he returns, with unimpeded march and unobstructed way; he returns, the majestic, swift electric telegraph of the Almighty, bearing upon his flaming front the tidings that throughout the universe there is still peace and order—that, amid the immeasurable dominions of the Great King, his rule is still perfect—that suns and stars and systems tread their endless circle and obey the Eternal Law.

When Pericles, the greatest of Athenian statesmen, stood in the suburb of the Kerameikos to deliver the funeral oration of the soldiers who had fallen in the expedition to Samos, he seized the occasion to describe, with great but pardonable pride, the grandeur of Athens. It was the first year of the Peloponnesian

war, and he spoke amid the trophies of the Persian conquest and the creations of the Greek genius. In that immortal oration he depicted in glowing colors the true sources of national greatness, and enumerated the titles by which Athens claimed to be first city of the world. He spoke of constitutional guarantees, of democratic principles, of the supremacy of law, of the freedom of the social march. He spoke of the elegance of private life — of the bounteousness of comforts and luxuries — of a system of education — of their encouragement to strangers — of their cultivated taste — of their love of the beautiful — of their rapid interchange of ideas; but above all, he dwelt upon the courage of her citizens, animated by reflections that her greatness was achieved "by men of daring, full of a sense of honorable shame in all their actions."

Fellow-citizens, in most of these respects we may adopt the description;

but if in taste, in manners, if in temples and statues, if in love and appreciation of art, we fall below the genius of Athens, in how many respects is it our fortune to be superior! We have a revealed religion; we have a perfect system of morality; we have a literature, based, it is true, on their models, but extending into realms of which they never dreamed; we have a vast and fertile territory within our own dominion, and science brings the whole world within our reach; we have founded an empire in a wilderness, and poured fabulous treasures into the lap of commerce.

But, amid all these wonders, it is obvious that we stand upon the threshold of new discoveries, and at the entrance to a more imperial dominion. The history of the last three hundred years has been a history of successive advances, each more wonderful than the last.

There is no reason to believe that the procession will be stayed, or the music

of its march be hushed; on the contrary, the world is radiant with hope, and all the signs in earth and heaven are full of promise to the race. Happy are we to whom it is given to share and spread these blessings; happier yet if we shall transmit the great trust committed to our care undimmed and unbroken to succeeding generations.

I have spoken of three hundred years past—dare I imagine three hundred years to come? It is a period very far beyond the life of the individual man; it is but a span in the history of a nation, throughout the changing generations of mental life. The men grow old and die, the community remains, the nation survives. As we transmit our institutions, so we shall transmit our blood and our names to future ages and populations. What multitudes shall throng these shores, what cities shall gem the borders of the sea! Here all people and all tongues shall meet. Here shall be a

more perfect civilization, a more thorough intellectual development, a firmer faith, a more reverent worship.

Perhaps, as we look back to the struggle of an earlier age, and mark the steps of our ancestors in the career we have traced, so some thoughtful man of letters in ages yet to come, may bring to light the history of this shore or of this day. I am sure, fellow-citizens, that whoever shall hereafter read it, will perceive that our pride and joy are dimmed by no stain of selfishness. Our pride is for humanity; our joy is for the world; and amid all the wonders of past achievement and all the splendors of present success, we turn with swelling hearts to gaze into the boundless future, with the earnest conviction that it will develop a universal brotherhood of man.

THE FERGUSON EULOGY

WILLIAM I. FERGUSON, a carpenter's son, born in Pennsylvania, grew up in Illinois, receiving a common-school education, clerking in a store, then becoming a lawyer. He was several times city attorney of Springfield, and in 1848, when he was only twenty-three, his name was on the Democratic electoral ticket. He came to be the first criminal lawyer at the Sangamon bar. He removed to California in the summer of 1853, locating in Sacramento, and in '55 was elected as a Know-nothing to the State Senate, and was made chairman of the Judiciary Committee. In '57 he was re-elected Senator, this time as a Democrat. The Democratic party was then dividing on the slavery question, and Ferguson became conspicuous as the most fervid orator of the Northern, or Douglas, wing. The Legislature then met annually. In August, 1858, between two sessions, Ferguson, on a visit to San Francisco, had a personal dispute, influenced by partisan feeling, with Geo. Pen Johnston, attorney-at-law, United States Commissioner, Clerk of the U. S. Circuit Court, and who later became part owner of the *Examiner* newspaper. Ferguson accepted a challenge to a duel, and the parties met on Angel Island, on August 21st. At the fourth fire Ferguson was shot in the leg just below the thigh. He held out against amputation, but three weeks afterward this was resorted to. His life ended under the ordeal. A pathetic story of the closing scene is presented in the old chronicles. It shows the nobility of the man whose doom moved Baker to words so apt and fond.

Before the commencement of the final preparation, Ferguson prepared himself for death. He then, for the first time, stated that he believed the wound had extended to his hip joint, as that had of late been the source of great pain. He had little or no doubt that amputation would be necessary, and he did not expect to survive it. Indeed, he went so far as to say that life was not desirable under such circumstances. His language was

sensible and cheerful, yet his tone was feeble and melancholy. He conversed freely of the difficulty that brought about the meeting between him and his antagonist, which he insisted was misunderstood. He did not doubt that Johnston was honest in that misunderstanding, and believed that he (Ferguson) had really made the remark attributed to him. Yet Ferguson contended that he (Ferguson) was the proper judge, and that his adversary was mistaken. On this assertion, he exhibited much earnestness, and repeated the remark again and again. He spoke of the meeting between them on the field, after he had been wounded, and regretted that an improper interpretation had been given to Johnston's remarks. He said they had been spoken kindly and feelingly, and were well intended, and he hoped no friend of his would say to the contrary. He also stated that the whole affair was conducted honorably and fairly; and above all, he desired that no prosecution of Johnston should be tolerated by his friends. He said in this connection, "I freely forgive him, and hope he may continue to be a useful and honorable member of society; then, why should others, whom he never injured, refuse to do so?" He spoke of his mother; but no language can convey the eloquence of his trembling lips, his silvery accents, as he called the name of her who gave the life now just entering eternity. He expressed the wish to be buried in Sacramento, as he felt that place to be his home — yet he would leave that matter to his friends. At this period he desired to be alone. A few moments thereafter his faithful servant "John" came from his room bathed in tears. "He has said his last prayer on earth." When his friends again entered, he said, "I am ready." The chloroform was applied, and he never spoke more.

Ferguson had said, a day or two before, to those watching at his bedside: "My friend Baker has known me best; ask him, if he will, to speak of me when I am dead." The orator's eulogy was delivered in the Senate chamber at Sacramento, where the body was lying in state, September 16, 1858.

THE FERGUSON EULOGY.

The intense interest which is apparent in this crowded auditory too well evinces the mournful character of the ceremony we are about to perform. Wherever death may invade the precincts of life, whether in the loftiest or lowliest home, there is a tear for all who fall; there is a mourner for even the meanest and the most humble; but when beyond the deep impression which the change from life to death produces in all good minds—when beyond this we know that an eminent citizen is stricken down in the full vigor of his manhood and in the pride of his intellectual power, the impression is deeply mournful. And when to this we add that those who loved him in life, whose servant and representative he was, have gathered around his bier to-day to accompany him to his last resting-place

on earth, the impression is not merely mournful, but painful. And when we add to this that the man we mourn died by the hand of violence—suddenly—in a peaceful land, away from his own friends, the painful impression becomes an overwhelming sorrow.

At the personal request of our departed friend, it has been assigned to me to say a few words upon this occasion.

I have perhaps known him longer than anybody here. I have known him, more particularly in his early youth, perhaps better than any one here assembled. I have watched the bud, the blow, the fruit, and lastly the untimely decay; and while I desire to speak of him as he himself would wish to be spoken of; while I do not mean that personal friendship shall warp my judgment or lead me to say as his friend anything unduly in his praise, so also, on the other hand, shall I say nothing against him or others that is unjust or unkind.

The Ferguson Eulogy.

The gentleman whose remains you are about to consign to his last resting-place until the trump of the Archangel shall sound, was a native of the State of Pennsylvania. I knew his father well; a respectable, worthy, honest man; a mechanic by pursuit, intelligent, self-reliant, and in every respect honorable.

The young man was ambitious from his boyhood. He sought the profession of the law, not merely for itself, but as an opening that would lead to what he considered were higher and more noble positions.

He was fitted for the study of law by nature. He was then what you knew him but lately—bold, self-reliant, earnest, brilliant, eloquent, a good judge of human nature, kind, generous, making friends everywhere, placable in his resentments, easily appeased, and a true friend. He read law not only with me, but also with far more able men, and he formed his judgment of public affairs while

honored with the friendship of Douglas, his opponent, Lincoln, John J. Hardin, who won a deathless name at Buena Vista, Judge Logan, and many others who are the pride and boast of the Mississippi Valley. He was early distinguished in his own State. He was very young, and he had those contests among his own friends which are peculiar to politics; and there had the reverses and crosses without which no man is worth much. The success which he achieved here had its foundation laid in defeat, and I think I may say that most of what he knew as a politician he had learned in the school of adversity—

"That stern teacher of the human breast."

It is not good for a man to be always successful, either in private or public life. No man's character can be formed without trial and suffering, and our departed friend showed by his course of conduct that he could endure temporary

defeat, confident of the ultimate success of the right—perhaps not the less confident of his power to achieve success. He was a successful candidate upon the Democratic ticket for presidential elector in 1848. He was as renowned in his own State, as a debater, as he was here; he had (and that is saying a great deal) as many friends there as he had here; he deserved them there, as he deserved them here, by his fidelity to his friends, high personal qualities, courage, intellect, brilliancy—by those qualities which rendered him so dear to many of you now before me.

He came here, and what he was here you know better than I. You knew him well, for he served you. You knew him well, for he ever strove for your approbation, and loved you living, and loved you dying. He had a great many qualities that make a successful politician, not merely in the personal sense of the word, but in a higher sense, the achievement of

great deeds, and the advancement of great principles.

These halls have been the witnesses of many of his triumphs. As was well remarked by a contemporary newspaper, he hardly ever undertook that which, when he set himself earnestly to work, he did not accomplish. He had the determination to succeed—that knowledge of mankind—that control over other men's minds—that kindly manner, those generous impulses for all—that love for humanity—those qualities of mind which, if they called forth grave defects, also called forth great virtues. And these are in most of the departments of life the great elements of success. Mere intellect, except in the closet, does but little; the qualities of mind, of mere abstract wisdom, which distinguished a Newton or a La Place, would do but little at Washington. It is the same both in private and public life. A knowledge of the human heart; a readiness of re-

sources; kindness of heart; fidelity in friendship—will effect more than mere abstract wisdom, and must be combined with it in order to render that wisdom of avail. These, and all these, our friend had.

You know how well he served you; and those who knew him best, knew how ardently he desired your approbation, how earnestly he strove to win it.

There is more than one thing in his legislative career which deserves notice, and not the least is the manner of his death. He died poor—not poor in the common sense of the term, but poor as was Aristides when he was buried at the expense of the citizens of Athens. Amongst all his papers, there is not found the trace of a speculation. He had no property—no resources; his poverty, if remarkable, was honorable. In a land where corruption is said to be rife, the more especially in legislative bodies, and which, whether the charge is true or

false, is proverbially liable to corrupting influences, it seems impossible that he used the vast power he possessed for aught except the public interest and welfare. And this alone would be a proud epitaph to record upon his tombstone. He was a man of undoubted courage, as his death proved. I am not here to speak of its manner. I am not here to discuss the subject of dueling. If I were, it would be to utter my unqualified condemnation of the code which offers to personal vindictiveness a life due only to a country, a family, and to God. If I were, under any circumstances, an advocate for a duel, it should be at least a fair, equal, and honorable duel. If, as was said by an eloquent advocate in its favor, "it was the light of past ages which shed its radiance upon the hill-tops of civilization, although its light might be lost in the dark shade of the valleys below"; if even I held this view, I should still maintain that a duel

should be fair and equal; that skill should not be matched against ignorance, practical training against its absence. And while I am in no sense to be understood as expressing an opinion as to the late duel, knowing nothing of the matter myself, yet I do say that no duel should stand the test of public opinion, independent of the law, except the great element of equality is there. In the pursuits of common life, no one not trained to a profession is supposed to be a match for a professional man in the duties of his profession. I am no match for a physician in any matters connected with his pursuits, nor would the physician be a match for me in a legal argument. The soldier is no fair match for the civilian, when the latter has not been trained to the use of arms; nor, although his courage is equal, and he may have a profound conviction that he is right, will, therefore, the contest be rendered equal and just. I repeat that

I do not make these remarks intending thereby to reflect upon the character of the late duel. Personally, I know nothing more than what I and you all have heard. Whether it was fair or unfair, it is not my province to inquire. I am denouncing the system itself, for it loses annually hundreds of valuable lives, and in the present state of civilization, it does no good, profits nothing, arrests no evil, but impels a thousand evils; but above all, do I protest against any contests of this nature where, in skill, knowledge of weapons, or from any cause, the parties are not equals in all the conditions of that stern debate. The friend whose loss we deplore was undoubtedly a man of courage. Whatever may be said with respect to the code of dueling—whatever may be said as to his motives—his conduct on the field was in all respects what his friends expected. He stood four fires, at a distance of scarcely twenty feet, with a

conviction that there was a strong determination to take his life—that the matter should be carried to an extremity—and that, too, when, until the day before, he had never fired a pistol off in his life. But courage is shown not merely in action, but in endurance. A woman may show the higher quality of courage in many instances where many men would fail. A brave man—a really brave man—shows his courage no less in endurance than in action. It is a higher, a greater quality to suffer than to do; and in this respect our friend was no way defective. He bore a long and painful confinement—he bore a severe operation—he saw his hold upon life unclasping day by day, hour by hour; and amidst it all, neither his resolution nor his cheerfulness faltered for an instant. When he lay helpless, looking back upon the errors (and who has not errors?) of his life, he seemed to recall them for lessons of instruction and warn-

UNIVERSITY OF

ing for the future; and when he knew he must die, he arrayed himself for the last contest, to die as became a man, amid all sweet and pious and holy recollections. He died with no vindictive passion in his heart. He died with words of affection upon his lips. He died with the thoughts of his mother present to his soul. He left this world with the thoughts of home and mother. He left with words of forgiveness and kindness. His last act of consciousness was an act of prayer.

O Affection, Forgiveness, Faith! ye are mighty spirits. Ye are powerful angels. And the soul that in its dying moments trusts to these, cannot be far from the gates of heaven, whatever the past life may have been. However passion or excitement may have led a soul astray, if at the last and final hour it returns to the lessons of a mother's love, of a father's care — if it learns the great lesson of forgiveness to its enemies — if at the last moment it can utter these words: "Father

of life and light and love!"—these shall be winged angels—troops of blessed spirits—that will bear the fainting, wounded soul to the blessed abodes, and forever guard it against despair. Oh, my friends! those mighty gates built by the Almighty to guard the entrance to the unseen world, will not open at the battle-ax of the conqueror; they will not roll back if all the artillery of earth were to thunder forth a demand, which, indeed, would be lost in the infinite regions of eternal space! but they will open with thoughts of affection, with forgiveness of injuries, and with prayer.

But I am not here to speak of the virtues of the departed alone. He had his defects; they were great; they were marked; but they were incident to his career and his character. He was, by nature and habit, a politician; and of all callings, that of a politician is the most illusive and unsatisfactory: it kindles the mind in a state of constant excitement:

it is a constant struggle, which is frequently injurious in its effects; and our friend, with all his fine qualities, was no exception to the rule. Let him that is without sin cast the first stone. Of how many can we say that no greater defect can be recorded? Of him who is dead, what worse can be said? He was honorable, honest, loving, generous, placable; and if amid his virtues, there were some defects, they are but to be mentioned to be forgiven and forgotten.

Fellow-citizens, the words I utter I should not deem complete if I did not, before I close, utter a word of warning. The most powerful intellect, the most amiable qualities, may be shaded by a love for excitement and the evils which the life of a politician is but too apt to engender. What Ferguson was, we know. What he might have been, if he had conquered himself, who can tell? The inspired Book says that "he that ruleth his own spirit is greater than him that

taketh a city," and if our departed friend could have conquered himself, who could have stayed the resistless course of his bright intellect? It should be a warning to us all, gray heads as well as to young men. All should remember that the pursuit of politics is delusive and full of temptation. No man should forget the duty he owes to his country, but all should remember that they owe a duty to themselves. When men — I refer now more particularly to young men — see a great statesman stand forth in the midst of a listening senate, and mark the stamp which he makes upon the public mind, and upon the policy of the country, by the force of his intellectual vigor, they are apt to forget the labors by which that proud position has been achieved — to forget how many have sought to attain such a lofty position and have failed; and to forget that he who is now filling their minds with admiration, may be on the eve of a sudden fall. Politics should not

be the pursuit — I mean the only pursuit — of any man. Representative honors, official station, should only be the occasional reward, or the occasional sacrifice; and if, forgetting this rule, young men attempt to make politics their only hope, with the probability that in many cases they will fail, and that if successful, they will surely be exposed to a thousand temptations: if they love excitement for its own sake — the noisy meetings, the conventions, the elections — this love for excitement will grow upon them, and they will soon be on the high road to ruin.

If any one is determined to achieve distinction in politics, let him first obtain a competency in some trade, profession, or pursuit, and then, even if unsuccessful in politics, the misstep will not be irretrievable. But, young men, do not be beguiled by the example of our Ferguson, even if you possess his splendid talents — even if you could achieve

the success he did: look at *the end!* There he lies in a bloody grave. Let your habits be fixed. "Let all the ends thou aimest at be thy country's and thy God's."

Fellow-citizens, I have said what I supposed this occasion most required. If I had been told sixteen years ago that it would be my fortune to stand by the bloody grave of my young friend, in the city of Sacramento on the Pacific coast, I could scarcely have believed it had an angel from heaven told me so; for at that time there was no civilized Pacific coast. Then *his* course was unmarked, and my future was so marked out, that it would seem but little less than a miracle that I should stand here, by his dying request, to offer a few poor remarks over his bier, before he is laid to rest in the place he loved so well — in the city named after the sweeping Sacramento. But who can tell what a day may bring forth? Here we see the sud-

den, untimely end of one who was amiable, gifted, and who was looking forward to a long career of honor and fame. And perhaps it may be my lot to be shortly laid in the grave; and perhaps in this assembly some one may be called upon to address some remarks over my poor lifeless body—even as I have been called upon on the present occasion; and if this should be so, I pray that that friend may accord to me as much of praise and as little of blame as will be consistent with the truth.

In conclusion, I would remark that I have no words sufficient to express my own personal regret. I have lost a warm personal friend. I may find others, but I shall not be able to find friends that I have loved in other years. I shall not often find those to whom I can, as I could to him, talk of the old familiar times and the lessons I taught him in early life—of the virtues and example of his parents—of his mother's, his

poor afflicted mother's affection and love —of his old contests—his old hopes, so often broken. I shall not often find friends like these, nor can the breach which death has made be so easily repaired.

Let me hope, for myself and us all, that when we have filled our allotted space in this world; when we are attended by weeping friends, for the purpose of removing us to our last resting-place, that it shall not be said of us that we have lived without purpose, but that we have gathered friends in the days of our manhood; that we have left fruits to bloom when we have departed.

THE BRODERICK ORATION

DAVID C. BRODERICK, stone-cutter's son and United States Senator, was born in Washington, D. C., on the 4th of February, 1820. In his sixth year the family settled permanently in New York City. When he was fourteen his father died, and, at seventeen, he was apprenticed to his father's trade, and followed it for some years. He received little education in boyhood, but began a wide course of reading before coming of age. He became prominent in local politics on the Democratic side, and in the fire organization, being foreman of Howard Engine Company, No. 34. The death of his mother in '42, and the loss of his brother by an accident soon after, left him without a known relative. In '46 he was nominated for Congress by one wing of his party, the Young Democracy, but was defeated. He arrived in California in 1849. While an operative in Samuel W. Haight's assay office, San Francisco, he was, in January, 1850, elected to a vacancy in the State Senate, and was re-elected for a full term. He had organized the first fire company in the city—Empire No. 1—and became its foreman. When Broderick died, the company took his name.

In January, 1852, he was defeated by John B. Weller for the Democratic nomination for United States Senator—losing the prize by one vote. Five years later, he was elected to that office for a full term of six years from the 4th of March, 1857. The Democratic party being divided by the slavery question into Northern and Southern wings, Broderick led the former, while Southern men, generally, followed his senatorial colleague, Wm. M. Gwin. President Buchanan favored the Southern wing, and Senator Gwin directed the distribution of Federal patronage in California. Returning home, after an open breach with the President, Broderick entered, with great determination, into the most exciting and remarkable political canvass the State has known—that of 1859. It was the campaign

which the genius of Baker so illumined. The Democratic party broke squarely in two, and the Republicans made their first great fight, but not a winning one. The Administration Democrats elected their full ticket for State officers (Latham for Governor), and, although Douglas Democrats and Republicans united upon Baker and Sibley for Congress, the latter were defeated overwhelmingly.

In June, 1859, the campaign pending, Judge David S. Terry, of the Supreme Court, Administration Democrat, in a public speech, alluded to the other wing of his party as "the personal chattels of a single individual whom they are ashamed of. They belong, body and breeches, to David C. Broderick." On reading this speech, Broderick remarked that he had once referred to Judge Terry as the only honest man on the Supreme Bench, but that now he took it back. D. W. Perley, a friend of Judge Terry, heard this expression, and challenged Broderick to a duel. The Senator replied, in effect, that he would be otherwise engaged until the canvass was ended. Right after the election, when Broderick and Baker were in the valley of defeat, Judge Terry resigned from the Supreme Bench, and, after correspondence, Broderick explaining, but not retracting, the Judge challenged the Senator, who accepted. On the 12th of September, 1859, near Lake Merced, was fought the most memorable duel in our annals, graphically described in BENCH AND BAR IN CALIFORNIA, by an eye-witness. Broderick fell at the first exchange of shots, struck full in the right breast. He expired four days later. The body was placed in state in the Union Hotel, fronting Portsmouth Square, in which Ferguson had died a year before. The funeral occurred on Sunday, September 18th, the same master tongue that spoke at Ferguson's bier delivering the eulogium.

Broderick left a large estate—the result of investments in San Francisco realty—which was the subject of protracted litigation. A chapter in REPRESENTATIVE MEN OF THE PACIFIC is devoted to his career.

The oration, which next follows, was thus referred to

by George Wilkes, of New York city, in a newspaper eulogy of Baker, soon after the latter's death:—

"At the foot of the coffin stood the priest; at its head, and so he could gaze fully on the face of his dead friend, stood the fine figure of the orator. Both of them, the living and the dead, were self-made men; and the son of the stone-cutter, lying in mute grandeur, with a record floating round the coffin which bowed the heads of the surrounding thousands down in silent respect, might have been proud of the tribute which the weaver's apprentice was about to lay upon his breast. For minutes after the vast audience had settled itself to hear his words, the orator did not speak. He did not look in the coffin—nay, neither to the right nor left; but the gaze of his fixed eye was turned within his mind, and the tear was upon his cheek. Then, when the silence was the most intense, his tremulous voice rose like a wail, and, with an uninterrupted stream of lofty, burning, and pathetic words, he so penetrated and possessed the hearts of the sorrowing mulitude, that there was not one cheek less moistened than his own. For an hour he held them as with a spell; and when he finished, by bending over the calm face and stretching his arms forward by an impressive gesture, exclaimed, in quavering accents, 'Good friend! brave heart! gallant leader! hail and farewell!' the audience broke into a general response of sobs. Never, perhaps, was eloquence more thrilling; never, certainly, was it better adapted to the temper of the listeners. The political field in California not being open to immediate occupation, Baker transferred himself to Oregon, and there the glow of his last effort soon carried him to the highest honors of that State."

Of this production, Edward Stanly said, in his own fine eulogy of Baker: "I have read no effort of that character, called out by such an event, so admirable, so touching, so worthy the sweet eloquence of Baker. It should crown him with immortality."

THE BRODERICK ORATION.

CITIZENS OF CALIFORNIA: A Senator lies dead in our midst! He is wrapped in a bloody shroud, and we, to whom his toils and cares were given, are about to bear him to the place appointed for all the living. It is not fit that such a man should pass to the tomb unheralded; it is not fit that such a life should steal unnoticed to its close; it is not fit that such a death should call forth no rebuke, or be followed by no public lamentation. It is this conviction which impels the gathering of this assemblage. We are here of every station and pursuit, of every creed and character, each in his capacity of citizen, to swell the mournful tribute which the majesty of the people offers to the unreplying dead. He lies to-day surrounded by little of funeral pomp. No banners droop above the bier, no

melancholy music floats upon the reluctant air. The hopes of high-hearted friends droop like fading flowers upon his breast, and the struggling sigh compels the tear in eyes that seldom weep. Around him are those who have known him best and loved him longest; who have shared the triumph, and endured the defeat. Near him are the gravest and noblest of the State, possessed by a grief at once earnest and sincere; while beyond, the masses of the people whom he loved and for whom his life was given, gather like a thunder-cloud of swelling and indignant grief.

In such a presence, fellow-citizens, let us linger for a moment at the portals of the tomb, whose shadowy arches vibrate to the public heart, to speak a few brief words of the man, of his life, and of his death.

Mr. Broderick was born in the District of Columbia, in 1820. He was of Irish descent, and of obscure and respectable parentage; he had little of early advan-

tages, and never summoned to his aid a complete and finished education. His boyhood and his early manhood were passed in the city of New York, and the loss of his father early stimulated him to the efforts which maintained his surviving mother and brother, and served also to fix and form his character even in his boyhood. His love for his mother was his first and most distinctive trait of character, and when his brother died — an early and sudden death — the shock gave a serious and reflective cast to his habits and his thoughts, which marked them to the last hour of his life.

He was always filled with pride, and energy, and ambition. His pride was in the manliness and force of his character, and no man had more reason than he for such pride. His energy was manifest in the most resolute struggles with poverty and obscurity, and his ambition impelled him to seek a foremost place in the great race for honorable power.

Up to the time of his arrival in California, his life had been passed amid events incident to such a character. Fearless, self-reliant, open in his enmities, warm in his friendships, wedded to his opinions, and marching directly to his purpose through and over all opposition, his career was checkered with success and defeat; but even in defeat, his energies were strengthened and his character developed. When he reached these shores, his keen observation taught him at once that he trod a broad field, and that a higher career was before him. He had no false pride; sprung from a people and of a race whose vocation was labor, he toiled with his own hands, and sprang at a bound from the workshop to the legislative hall. From that time there congregated around him and against him the elements of success and defeat—strong friendships, bitter enmities, high praise, malignant calumnies; but he trod with a free

and a proud step that onward path which has led him to glory and the grave.

It would be idle for me, at this hour and in this place, to speak of all that history with unmitigated praise; it will be idle for his enemies hereafter to deny his claim to noble virtues and high purposes. When, in the Legislature, he boldly denounced the special legislation which is the curse of a new country, he proved his courage and his rectitude. When he opposed the various and sometimes successful schemes to strike out the salutary provisions of the Constitution which guarded free labor, he was true to all the better instincts of his life. When, prompted by ambition and the admiration of his friends, he first sought a seat in the Senate of the United States, he aimed by legitimate effort to attain the highest of all earthly positions, and failed with honor.

It is my duty to say that, in my judgment, when at a later period he sought

to anticipate the senatorial election, he committed an error which I think he lived to regret. It would have been a violation of the true principles of representative government, which no reason, public or private, could justify, and could never have met the permanent approval of good and wise men. Yet, while I say this over his bier, let me remind you of the temptation to such an error, of the plans and reasons which prompted it, of the many good purposes it was intended to effect. And if ambition, "the last infirmity of noble minds," led him for a moment from the better path, let me remind you how nobly he regained it.

It is impossible to speak within the limits of this address of the events of that session of the Legislature at which he was elected to the Senate of the United States; but some things should not be passed in silence here. The contest between him and the present Senator

had been bitter and personal. He had triumphed. He had been wonderfully sustained by his friends, and stood confessedly "the first in honor and the first in place." He yielded to an appeal made to his magnanimity by his foe. If he judged unwisely, he has paid the forfeit well. Never in the history of political warfare has any public man been so pursued; never has malignity so exhausted itself.

Fellow-citizens! the man whose body lies before you was your Senator. From the moment of his election his character has been maligned, his motives attacked, his courage impeached, his patriotism assailed. It has been a system tending to one end — and the end is here. What was his crime? Review his history — consider his public acts — weigh his private character,— and before the grave incloses him forever, judge between him and his enemies.

As a man — to be judged in his pri-

vate relations—who was his superior? It was his boast, and amid the general license of a new country, it was a proud one, that his most scrutinizing enemy could fix no single act of immorality upon him! Temperate, decorous, self-restrained, he had passed through all the excitements of California unstained. No man could charge him with broken faith or violated trust; of habits simple and inexpensive, he had no lust of gain. He overreached no man's weakness in a bargain, and withheld from no man his just dues. Never, in the history of the State, has there been a citizen who has borne public relations more stainless in all respects than he.

But it is not by this standard he is to be judged. He was a public man, and his memory demands a public judgment. What was his public crime? The answer is in his own words: "*I die because I was opposed to a corrupt administration, and the extension of slavery.*" Fellow-citizens,

they are remarkable words, uttered at a very remarkable moment; they involve the history of his senatorial career, and of its sad and bloody termination.

When Mr. Broderick entered the Senate, he had been elected at the beginning of a Presidential term as the friend of the President-elect, having undoubtedly been one of his most influential supporters. There were unquestionably some things in the exercise of the appointing power which he could have wished otherwise; but he had every reason to remain with the Administration which could be supposed to weigh with a man in his position. He had heartily maintained the doctrine of popular sovereignty, as set forth in the Cincinnati platform, and he never wavered in his support till the day of his death. But when in his judgment the President betrayed his obligations to his party and country — when, in the whole series of acts in relation to Kansas, he proved recreant to his pledges

and instructions — when the whole power of the Administration was brought to bear upon the legislative branch of the Government, in order to force slavery upon an unwilling people — then, in the high performance of his duty as a Senator, he rebuked the Administration by his voice and vote, and stood by his principles. It is true, he adopted no half-way measures. He threw the whole weight of his character into the ranks of the opposition. He endeavored to arouse the people to an indignant sense of the iniquitous tyranny of Federal power, and kindling with the contest, became its fiercest and firmest opponent. Fellow-citizens, whatever may have been your political predilections, it is impossible to repress your admiration, as you review the conduct of the man who lies hushed in death before you. You read in his history a glorious imitation of the great popular leaders who have opposed the despotic influences of power in other

lands and in our own. When John Hampden died on Chalgrove field, he sealed his devotion to popular liberty with his blood. The eloquence of Fox found the sources of its inspiration in his love for the people. When Senators conspired against Tiberius Gracchus, and the Tribune of the people fell beneath their daggers, it was power that prompted the crime and demanded the sacrifice. Who can doubt, if your Senator had surrendered his free thought, and bent in submission to the rule of the Administration — who can doubt that, instead of resting on a bloody bier, he would have this day been reposing in the inglorious felicitude of Presidential sunshine?

Fellow-citizens, let no man suppose that the death of the eminent citizen of whom I speak was caused by any other reason than that to which his own words assign it. It has been long foreshadowed — it was predicted by his friends — it was threatened by his enemies: it

was the consequence of intense political hatred. His death was a political necessity, poorly veiled beneath the guise of a private quarrel. Here, in his own State, among those who witnessed the late canvass, who know the contending leaders, among those who know the antagonists on the bloody ground — here, the public conviction is so thoroughly settled, that nothing need be said. Tested by the correspondence itself, there was no cause, in morals, in honor, in taste, by any code, by the custom of any civilized land, there was no cause for blood. Let me repeat the story — it is as brief as it is fatal: A judge of the Supreme Court descends into a political convention — it is just, however, to say that the occasion was to return thanks to his friends for an unsuccessful support. In a speech bitter and personal, he stigmatized Senator Broderick and all his friends in words of contemptuous insult. When Mr. Broderick saw that speech, he retorted, saying

in substance, that he had heretofore spoken of Judge Terry as an honest man, but that he now took it back. When inquired of, he admitted that he had so said, and connected his words with Judge Terry's speech as prompting them. So far as Judge Terry personally was concerned, this was the cause of mortal combat; there was no other.

In the contest which has just terminated in the State, Mr. Broderick had taken a leading part; he had been engaged in controversies very personal in their nature, because the subjects of public discussion had involved the character and conduct of many public and distinguished men. But Judge Terry was not one of these. He was no contestant; his conduct was not in issue; he had been mentioned but once incidentally — in reply to his own attack — and, except as it might be found in his peculiar traits or peculiar fitness, there was no reason to suppose that he would seek any man's

blood. When William of Nassau, the deliverer of Holland, died in the presence of his wife and children, the hand that struck the blow was not nerved by private vengeance. When the fourth Henry passed unharmed amid the dangers of the field of Ivry, to perish in the streets of his capital by the hand of a fanatic, he did not seek to avenge a private grief. An exaggerated sense of personal honor —a weak mind with choleric passions, intense sectional prejudice united with great confidence in the use of arms— these sometimes serve to stimulate the instruments which accomplish the deepest and deadliest purpose.

Fellow-citizens! One year ago to-day I performed a duty, such as I perform to-day, over the remains of Senator Ferguson, who died as Broderick died, tangled in the meshes of the code of honor. To-day there is another and more eminent sacrifice. To-day I renew my protest; to-day I utter yours. The code

of honor is a delusion and a snare; it palters with the hope of a true courage and binds it at the feet of crafty and cruel skill. It surrounds its victim with the pomp and grace of the procession, but leaves him bleeding on the altar. It substitutes cold and deliberate preparation for courageous and manly impulse, and arms the one to disarm the other; it may prevent fraud between practiced duelists who should be forever without its pale, but it makes the mere "trick of the weapon" superior to the noblest cause and the truest courage. Its pretense of equality is a lie — it is equal in all the form, it is unjust in all the substance — the habitude of arms, the early training, the frontier life, the border war, the sectional custom, the life of leisure, all these are advantages which no negotiation can neutralize, and which no courage can overcome.

But, fellow-citizens, the protest is not only spoken in your words and in mine —

it is written in indelible characters; it is written in the blood of Gilbert, in the blood of Ferguson, in the blood of Broderick; and the inscription will not altogether fade.

With the administration of the code in this particular case, I am not here to deal. Amid passionate grief, let us strive to be just. I give no currency to rumors of which personally I know nothing; there are other tribunals to which they may well be referred, and this is not one of them. But I am here to say, that whatever in the code of honor or out of it demands or allows a deadly combat where there is not in all things entire and certain equality, is a prostitution of the name, is an evasion of the substance, and is a shield blazoned with the name of Chivalry, to cover the malignity of murder.

And now, as the shadows turn toward the east, and we prepare to bear these poor remains to their silent resting-place,

let us not seek to repress the generous pride which prompts a recital of noble deeds and manly virtues. He rose unaided and alone; he began his career without family or fortune, in the face of difficulties; he inherited poverty and obscurity; he died a Senator in Congress, having written his name in the history of the great struggle for the rights of the people against the despotism of organization and the corruption of power. He leaves in the hearts of his friends the tenderest and the proudest recollections. He was honest, faithful, earnest, sincere, generous, and brave: he felt in all the great crises of his life that he was a leader in the ranks; that it was his high duty to uphold the interests of the masses; that he could not falter. When he returned from that fatal field, while the dark wing of the Archangel of Death was casting its shadows upon his brow, his greatest anxiety was as to the performance of his duty. He felt that all

his strength and all his life belonged to the cause to which he had devoted them. "Baker," said he—and to me they were his last words—"Baker, when I was struck I tried to stand firm, but the blow blinded me, and I could not." I trust it is no shame to my manhood that tears blinded me as he said it. Of his last hour I have no heart to speak. He was the last of his race; there was no kindred hand to smooth his couch or wipe the death damp from his brow; but around that dying bed strong men, the friends of early manhood, the devoted adherents of later life, bowed in irrepressible grief, "and lifted up their voices and wept."

But, fellow-citizens, the voice of lamentation is not uttered by private friendship alone—the blow that struck his manly breast has touched the heart of a people, and as the sad tidings spread, a general gloom prevails. Who now shall speak for California?—who be the interpreter of the wants of the Pacific Coast?

Who can appeal to the communities of the Atlantic who love free labor? Who can speak for masses of men with a passionate love for the classes from whence he sprung? Who can defy the blandishments of power, the insolence of office, the corruption of administrations? What hopes are buried with him in the grave!

"Ah! who that gallant spirit shall resume,
Leap from Eurotas' bank, and call us from
the tomb?"

But the last word must be spoken, and the imperious mandate of Death must be fulfilled. Thus, O brave heart! we bear thee to thy rest. Thus, surrounded by tens of thousands, we leave thee to the equal grave. As in life, no other voice among us so rung its trumpet blast upon the ear of freemen, so in death its echoes will reverberate amid our mountains and valleys, until truth and valor cease to appeal to the human heart.

Good friend! true hero! hail and farewell.

THE AMERICAN THEATER SPEECH

We come to the most triumphant effort of Baker's life — the most triumphant, in that he never stood forth the conqueror as on that occasion, and never so proudly waved his unchallenged banner. It has already appeared how, so unexpectedly and swiftly, the valley of defeat had been left and the summit of victory reached. The orator alludes to the sharp turns of fortune more than once in this great effort, known universally as "The American Tneater Speech," in which, among many fine passages, occurs the impassioned tribute to Freedom, and with which speech alone his name is associated in the minds of thousands. The roomy old theater, long since demolished, stood where now is Halleck Block, on the northeasterly corner of Sansome and Halleck streets. The orator was passing through San Francisco to Washington City, in his pocket his credentials from Oregon as her Senator. At a reception by his friends he declined to make a speech, but he had a surprise for F. F. Low (who was to be Governor of the State a few years later). When Baker was electrifying the masses of the State on the stump, not a year before, Low, then a banker at Marysville, had enthusiastically promised him a fine suit of clothes, "when you take your seat in Congress." When defeat came, Low thought no more of the matter. Baker, now a Senator from another commonwealth, met the Marysville banker at the San Francisco reception, and said, "Low, I'll take that suit of clothes." Of course, he was accommodated. The American Theater speech was delivered on the evening of the same day, October 26, 1860. Baker was never so animated. It was the liveliest meeting he ever addressed, the ladies more than filling the dress circle.

THE AMERICAN THEATER SPEECH.

I owe more thanks than my life can repay; and I wish all Oregon were here to-night. We are a quiet, earnest, pastoral people, but by the banks of the Willamette there are many whose hearts would beat high as yours if they were here. I owe you much, but I owe more to Oregon. [Laughter.] My heart is very full and very glad. Oregon regards herself as one with California — the interests of the Pacific as the same, whether at the mouth of the Columbia or the Golden Gate. More than that, she believes that the interests of the Union are one, and she intends to stand by it.

Just when I ought to make the best speech of my life, I know I'll make the very worst. Four years ago this night, in front of this very house, I had the

honor to attempt to lay a little deeper and broader the principles of Republicanism by trying to show why we should elect as President an eminent citizen, who, I believe, is here to-night [turning to the box where sat John C. Frémont, with his family]. We were a young and untried party then. I recollect saying then, that, as "Revolutions never go backwards," whoever became a Republican then would remain one. We have lost nobody since, and are gaining everybody. [Laughter.] I know we are going to win. All signs in heaven and earth approve it. Still, on the eve of battle, though in every skirmish they have shown superiority, the leader may well pass before the line; and if I might assume that position for a single moment, as the shouts of victory echo from wing to wing, from front to rear, I would pass along to assure the fearful and confirm the bold. [Applause.]

They used to say that we were a sec-

tional party. We sectional! Who, then, is national? Breckinridge will get no State at the North, and the Bell and Everett men say he will get none at the South. [Laughter.] Sectional, are we? We used to reply: First, freedom can't be sectional; it must be national. [Here there was some struggle near the door. "Heavens! let us get out—we're sweltering!" cried a voice. "You can't stir a peg—you must stand it," answered another. Soon all was quiet again.]

But they used to affirm that, as a party, we mean to deal unfairly with a portion of the States. When have we said or intimated anything of the sort? If we are not yet represented in every State, whose fault is it? They won't let us go South to make Republicans. [Laughter.] Mr. Douglas intimates that Mr. Lincoln can't go South to see his mother. But in this view of the matter we are getting over our sectionalism very fast. Have you heard from St. Louis? Have

you ever heard of Frank Blair? Have you heard anything from Western Virginia?* Anything from the poor white folks of the South? If it is sectional not to get many votes in one section, how many will Breckinridge get in New York? All he will get there will be by pretending not to run. [Laughter.] How many votes will he get in Illinois? Will he get half as many votes in Illinois as Lincoln will in Missouri?

But I prefer to test it in another way. I deny that in the beginning, or in the end, we desire to interfere with slavery in any way where it exists by law. I deny that we desire to interfere with slavery in the Territories where it has been put there by the people. And as a party and as individuals we have more interest in preserving the Union than you have. We never proposed—you never heard one of us propose—to dissolve the Union. Many of us were old Whigs,

*West Virginia was not yet a State.

and we have been beaten out of our boots—not once only, but all the time. We deplored the election of James Buchanan as a national calamity. They got their President, the House, the Senate, the Supreme Court. They got the executive, the legislative powers, the judiciary. Did you ever hear us threaten, imagine, or predict the dissolution of the Union? [Applause.]

But how stand you Breckinridge men on this subject? I will not say that every Breckinridge man is a disunionist; but I will say that every disunionist is a Breckinridge man. [Great laughter and applause.] The difference is like the Irishman's pronunciation in talking with an Englishman by the name of Footney. "Mr. Futney," said the Irishman, "you and I agree." "Very well," says Mr. Footney; "but my name is Footney." "Exactly so, Mr. Futney; Futney it is, then." "But, sir," says the Englishman, "my name is not Futney, but Footney—

F, double *o*, *t*—Footney." "By the man that made Moses, what is the difference between Futney and Futney?" [Great laughter.] Every disunionist, from Yancey, up and down, is a Breckinridge man. Here, I understand, their stump-speakers boldly proclaim the doctrine. The Senator from Oregon* said: "If the South don't stand up for her rights"—that is, secede—"they don't deserve to have them." We, on the other hand, mean to submit to everything, but we will have the Union. Oregon is the farthest from the center, but I believe she would be the last State to leave it. [Applause.] Yours, one of the youngest States, would be one of the last to leave it. We don't mean, we won't mean, we never shall mean, to dissolve. It is easy to talk of Union when you have the offices; but when you have n't them, how do you talk? I repeat—we don't propose to dissolve the Union, and we don't

* General Jo Lane.

propose to let anybody else dissolve it. [Cheers.]

But they say, "Our sufferings are intolerable; and if you elect Lincoln we'll dissolve the Union!" We propose to give them a chance to try it. What could Lincoln do without the Senate, and the House, and the Supreme Court, to make a dissolution necessary? He can't touch a dollar — he can't appoint an officer — he can't command a soldier to a single point — he cannot free a slave. But suppose Lincoln gets the House,— and I think he will,— suppose he gets a majority of the Senate, too. If he gets a majority of the Senate and the House and the people, I should think it would be pretty hard to dissolve. Some of the judges of the Supreme Court are getting very old; but, as Jefferson said of judges, they never die, and few resign [laughter], and it will be a long time before the Republicans can get the power to do anything that the

public voice and conscience will not approve.

There is something in party platforms. Many will persist that we don't mean to admit any more slave States. We have no such platform. We have given no such votes. We have said that we will not interfere with slavery in the States, nor with freedom in the Territories. They say we will pass laws opposed to the extension of slavery into the Territories. Well, our fathers were in that way—Washington and Jefferson. Everybody was that way once; and you are that way, too. The men who met to make the California Constitution hastened to dedicate free territory to free men forever. We have yielded somewhat of the sternness of our first principles in this matter. By the compromise of 1820 we allowed slave States to be made out of territory acquired by purchase, and only insisted that north of a certain line they should not go with their slaves.

If territory was free when acquired, it was to be left free forever. In 1850, when, as Mr. Seward said, the Whig and Democratic parties were in a state of dissolution, they wanted another set of provisions—they wanted a fugitive slave law. "Haven't you got one?" we asked. "Yes," they answered; "we've had one for forty years; but your judges and juries ain't to be trusted." "What!" we exclaimed, "would you set aside all our system of jurisprudence?" "Ah!" said they, "you have a machinery called the *habeas corpus*—you must give that up." We argued its inherent human justice. They said that it was all very well for a white man, but it should not apply to black ones. Suppose I have a black horse, and it runs away from Kentucky into Illinois. You say he must have a jury to try the question to whom he belongs. But if my black man runs away, he may not have a jury trial. We complained that the demand was unjust;

but then, if you are going to dissolve the Union, take your nigger, and let us have peace. [Great laughter.]

Well, in 1854, there was the Territory of Kansas. The South already had two thirds of the original territory dedicated to slavery; but still they grudged us Kansas, and passed the Nebraska Bill. Freedom, elastic, vigorous, growing, was too fast for them; it made Kansas a free Territory, and it would have made it a free State if it had not been for J. B. I am a Popular Sovereignty Republican. [Faint applause.] I was last year, and I am now. I believe in popular sovereignty, not as a principle, but as a policy—as a measure. And I don't believe in it because I don't care about slavery. I do care about slavery,—I do, so help me God! I do care about freedom. But since the experiment in Kansas, I believe more in the capacity of the people to govern themselves. The people will not tolerate slavery on free

soil. I seize from the Douglas Democrats this weapon, which in their hands is a reed, but in ours a spear of fir, "fit for the mast of some tall Admiral." We will make it a great weapon for freedom. Before it the slaveholders writhe in deep distress. They go out "and stand." [Laughter.] They break up their dearest idol—the traditionary organization of the Democratic party. I mock at their calamity—I laugh when their fear cometh. [Laughter.] Popular sovereignty means government by the people; it is no odds whether they govern Kansas by their votes in Kansas, or the Union by their votes in the Union.

Southern people claim the right to go wherever they choose with their property. I say in reply that the negro is not property in the general sense; he is property only in a sort of qualified sense. A negro can be property only in the face of the common law, humanity, religion, literature, and philosophy—for all these

claim that black or white, rich or poor, high or low, "a man's a man for a' that." [Great cheering.] It is true that there are certain compromises of the Constitution affecting this question, which we all agree to abide by; but we deny that the negro is by common law a slave. He is such slave only by local law; and we say, catch him where you can, keep him where you can, *hold* him where you can; but when he gets away from your local law, he is free, by every instinct of humanity, and every principle of the common law. [Applause.] We deny, then, that he is "property" which you have a right to take into the Territories, and you shall not carry him there against the common sentiment of the men among whom you go. Is not that fair? Can you overcome the argument? [Applause.]

In my country, where our hospitality [great laughter and applause, which interrupted the speaker]—in my country [renewed laughter and cheers, causing a

long pause]—well, in Oregon, then! [Prolonged applause.] As a friend at my elbow suggests, if it is n't my country, whose country is it? It is n't Joe Lane's, sure! [Tremendous applause.] In my country, where their hospitality is broader than their means of dispensing it conveniently, the good people are sometimes put to shifts to accommodate those who need shelter, and it becomes necessary to sleep three in a bed. [Laughter.] Well, in traveling through the country, I stop at a house for the night, and I am told that I must sleep after that fashion —three in a bed. We prepare to retire, when, looking at one of my companions for the night, I smell brimstone. [Here the Colonel sniffed the air suspiciously, the suggestive operation exciting a tumult of laughter on the part of his audience.] I say to him, "My good friend, are you from Scotland?" [Renewed merriment.] He replies, "No." I look around — feel nervous and uncomfort-

able—and finally exclaim, "My God! friend, you've got the itch!" He says, "Well!" and I say "Well!" And then I and the third man say, "We two can't sleep with you, and we are in the majority; you can't come to bed at all." [Laughter.] The fellow rejoins, "Good God! has it come to this—that a man can't go where he chooses with his own property?" [Renewed laughter and long continued applause.] Well, gentlemen, I have illustrated—you apply! Slavery is the itch to free labor, and we say it ought not to be carried into the Territories against the will of the free men who go there. [Great cheering.]

The normal condition of the Territories is freedom. Stand on the edge of the Sierra Nevadas, or upon the brow of any eminence looking down into the Territories beyond, and what do you behold? You find there the savage, the wild beast, and the wilderness, but you do not find slavery; and if it gets there,

it goes there by your local law. The Western man goes into the Territories with his family, his horses, his oxen, his ax and other implements of labor. The Southern man goes with his slave. The Western man says, "I can't work by the side of the slave—he degrades my free labor." And the Irishman or German (who don't go South to find employment) says, "I can't work by the side of the slave either—it degrades my labor." And these free laborers say, "Let us all go to work together and get Congress to make a law to do what Madison did—turn the negro out; and if they don't do it, we will do it for ourselves!" But the Southern man says, "No, you don't! I've got the Dred Scott decision in my pocket, which holds that neither Congress nor the Territorial Legislature, nor any human power can remove human slavery from the Territories; that it goes there protected by the Constitution of the United States, and there it must

remain; and now, therefore, I tell you Irishman, and German, and Western man, that your ideas of popular sovereignty and free labor are all humbug!" So says the slave-owner. Now, you Douglas Democrats, what are you going to do about this? Some of you say you don't care. I say you do care, for you can't help caring; first, because you are a man, and you feel that whatever affects humanity affects you. It is absurd to say that you don't care. There are four million slaves, and they are increasing. The fell influence of slavery is paralyzing the interests of freedom and free labor, and checking the advance of the whole country. It denies us legislation; it defeats our Pacific Railroad, and withholds the daily overland mail. If freedom is right, and popular sovereignty is right, sustain them like men; and sustain those alone through whom you can give it practical effect; if they are not right, abandon them. I would not make war,

revolutionize the Government, dissolve the Union, or nullify the decisions of the Supreme Court. If that Court says a negro is not a citizen, I submit; but I say to Douglas men, "Let 's attack the Supreme Court and reform it!" [Applause.] This is not nullification. We will obey the decision of the Supreme Court in this particular case; but as soon as God in his wisdom takes Taney and the rest of them to himself, we will, with the help of honest Lincoln put better men in their places, and thus reverse the Court by the verdict of the people. [Great cheers.] What will you Douglas men do? Will you hear the music of the march of freedom, and stand idly by, or turn a deaf ear? We have the right and duty thus lawfully and peacefully to reverse a decision which puts a construction upon the Constitution that is higher than the Constitution itself, especially when that decision relates to personal liberty. I say that a decision which

claims that by the Constitution slavery goes everywhere the flag goes, there to be and remain forever, is treason against human hope. [Tremendous applause.] You Douglas men, you will vote for popular sovereignty, will you? Now, how will you do it? What State will you carry? Perhaps California [cries of "No, No!"] and Missouri. What good will that do you? You can accomplish nothing. Come to us, then, and we will do you good. We will stand with you, and use popular sovereignty effectually, as a great engine of freedom.

There are people who talk as though we Republicans were doing the South some grievous wrong. How? When? Where? They forget that freedom and free labor are the great interests of the country. There are only about two hundred and seventy thousand white men who have a direct interest in human slavery. Will legislating, then, for thirty million of free white men, instead of for

the exclusive interest of two hundred and seventy thousand, be a cause for disunion? There are poor white men in the South as well as in the North, who have an interest in this question of free labor, and we stand for the interests of free labor everywhere the world over, wherever a bright eye sparkles, or a bright idea gives forth its light! [Applause.] Every country has a bright idea peculiar to itself. In England it is the commercial idea; in France, the military idea; here, freedom, free labor. [Applause.] Why not assert it, then? Guard it, protect it, dignify it, ennoble it! Do you want slave labor? Do you believe in these Dred Scott notions, and do you want the Constitution to carry slavery with you and fasten it upon you when you go to Arizona or other Territory? I ask you, citizens of foreign birth,—you, young German,—let me suppose that you have been in America for five years, and you go back to the old

home across the seas and give an account of your journeyings. You tell your old father that you have been in California, Oregon, Iowa. He says to you, "Well, John, I suppose you have been down into that fertile State, Virginia?" You answer, "No," and he asks, "Why not?" "Because they have slaves there." "That 's right, John," he says; "don't go where there are slaves. You started for a free country, John, and you were right to keep away from where they hold human beings in bondage. But what are your politics, John?" "I am a Democrat." "A Democrat! Well, I suppose that means in America just what it does in Europe—the opposite of aristocracy. The Democrat demands equal rights for all men. And what other party is there, John?" "The Republican party," you reply. "That 's a good name, too, John; but what is the difference between the Democrats and the Republicans?" And you go on to explain that Democracy in

the United States means equal rights to *all sections*, and Republicanism means equal rights to *all men*, but that you have clung to the Democratic party all your time in America, because of party name and organization, and old associations. "What!" says the old man, who looks straight at the propositions you have presented. "John," he observes, "did n't you use tc love freedom? And in the Revolution of 1848 were you not ready to die for it? And could you, after all that, go over to the United States to sneak after the supporters of human slavery and help them carry it wherever they choose, to curse free territory with its blight, and then call it Democracy?"

Suppose we keep all the Territories for freedom, who is hurt? We do only what our fathers did. We strike for freedom. We struggle for free labor. We act in the eyes of the world as becomes a free people. The South has already more slave territory than she

can scratch over in three hundred years. They are engaged in a struggle in which they have no sympathy from gods, angels, or man. They say to the North, "You may take the offices, or at least a good many of them—for we can wind you around our fingers as we like; but we must take our slaves where we choose." And in this struggle who are they going to take with them? First, they will take a part of the South; second, all of the office-holders of the North; and third,—nobody else! [Laughter.] The Democracy of the North, other than the office-holders, all go for Douglas, and, as to the office-holders we shall soon turn them out. Who else sympathizes with the slaveholders in this emergency? Does Germany? Russia? England? Spain? Mexico? When, after the Mexican War, the Commissioners met near Mexico City, to make a treaty of peace, they said to Mr. Trist, "We are a conquered people; you can do with us what you please; but

we implore you, do not force slavery on us."

When we are reproached for being Black Republicans, in what company do they put us? With whom? In California who are with us? The intelligence, the wealth, the beauty, the growing power, the convictions of right and of duty are with us. Who are you, wandering, drifting, shifting, fusing, dividing, half Breckinridge, half Douglas, now here, now there [swaying his figure from side to side],—who are you? Abolition chokes in your throat! For us it always thunders on the right; and you—on which side do you hear the thunder? Take this city—and in it the churches, the schoolhouses, the pretty women, the good, are on our side. [Laughter.] With you, if you want your cotton cleaned, you come to us for cotton-gins. I do not mean to cast any reproach upon the people of the South. They are a hospitable, a generous people. There

are disunionists among them, it is true, but the masses are sound, and I know they do love the country—God bless them!—the whole country. But in much that makes up national greatness and excellence, they are lamentably deficient. In deep philosophy, in inspired poetry, they are lacking. The books we write, they read,* the lectures we deliver, they hear; Bancroft and Prescott write their history for them; Bryant and Longfellow write their poetry. [Applause.] Even where despotism is rife, ideas of personal liberty are thriving. Even under the shadow of the throne of Russia; on the banks of the Seine, where the ashes of

*"We can imagine what a passionate tumult must have been excited by the propositions [of Madame de Staël] that literature has relations most intimate and most essential to public virtue, liberty, glory, and felicity; that a law of progression is imposed on human destiny, raising the level of manners and of literature from epoch to epoch; that this progression is indefinite, and advances with the growth of institutions—that is to say, with the tendency to republican government and republican manners, and will have for its distinctive character the triumph of the serious spirit of the North over the frivolous spirit of the South."—*Vinet's Studies upon the French Literature of the Nineteenth Century.*

the first Napoleon repose; where the British Queen in majestic dignity presides over a nation of freemen—everywhere abroad, the great ideas of personal liberty spread, increase, fructify. Here—ours is the exception! In this home of the exile, in this land of constitutional liberty, it is left for us to teach the world that slavery marches in solemn procession! that under the American stars slavery is protected, and the name of freedom must be faintly breathed, the songs of freedom be faintly sung! Garibaldi, Victor Emanuel, hosts of good men are praying, fighting, dying on scaffolds, in dungeons, oftener yet on battle-fields, for freedom; and yet while this great procession moves under the arches of liberty, we alone shrink back trembling and afraid when freedom is but mentioned! [Terrific cheers.]

[While the people were cheering, a Mr. Hart, who sat on the platform, apparently carried away with enthusiasm,

rushed to the footlights, and with extended arms and loud voice, exclaimed, "It is true! it is true! We are slaves, compared to the rest of the world." Then, pale as a ghost, he staggered back to his seat, the people continuing to cheer vociferously. The orator, meanwhile, was consulting a friend as to the time. He had been speaking an hour and a half.]

The interest of the South is identical—the slave interest belongs to the whole of it in common, and alone. Our interests are diversified; they lie in cattle, stocks, lands, manufactures; but all are connected with free labor. Whatever great measure comes before the nation develops the hostility of the South, because it conflicts with their one interest. The Pacific Railroad is a striking example. We have been children of the dispersion; longing and lingering, with eyes turned to the East, which many of us shall never see again. We have prayed and sighed for a railroad; we

have studied the whole matter through; we have showed how States would spring up along its route; we have demonstrated how it might be built and where; we have pointed out the reasons why we ought to enjoy the benefits of a ready communication with the East. Pierce professed to recommend the road; Buchanan professed to recommend it. We have asked for bread, and they have given us a stone; for fish, and they have given us a serpent. Even while I am speaking, a Breckinridge convention in Virginia is resolving against any railroad, in any way. If, four years ago, we had elected Frémont, in four months after, he would have recommended a railroad, and would have sent two regiments of dragoons in the meanwhile to tramp the track. [Cheers.] He would not have recommended a mere military road, but a railroad at once. He would have had no constitutional scruples himself, and would not have tolerated them in any

one else. He would not, as this man has done, have hesitated because somebody said that Mason, or Toombs, or somebody else, did not like it. There is not a more incorruptible man in the world, I believe, than Frémont; but if anybody had been corrupted, I assure you it would have been in favor of and not against the railroad. [Laughter and applause.]

We are running a man now by the name of Lincoln [cheers] who will do the same thing. He is an honest, good, simple-minded, true man, who is a hero without knowing it. If he recommends a railroad,—and he will,—he won't twaddle about it. But his hands must be upheld and strengthened by you. You must send men to Congress who will not feel that the "peculiar institution" is the only institution there is.

But what is true of the sentiments of the South toward a railroad, is true also of a homestead. What does she care for

a homestead? She never expects to use it. What does she care about a cordon of homes stretched from the Missouri to the Rocky Mountains, and from the Rocky Mountains to the Sierra Nevada? She is in another line of business. See Virginia, once the mother of Presidents and statesmen, now engaged in slave-breeding!—rearing little niggers to send farther South! She cares nothing about a homestead. But the German immigrant does—the men from Norway and Sweden do. Our interests are not hers,—at least, they are not the interests of her slaveholders,—and they, so long as they can control them, will give the votes of fifteen slave States against a homestead. But there is coming a change. One day this month Oregon elected a Republican Senator; and the next day her Democratic Legislature instructed him to vote for a homestead law.* [Cheers.]

*This statement seems a little artful, and may be explained. If it could be said that the Oregon Legislature was Democratic, it was yet the same body which elected

Now, when we get the power,—as we will,—we propose to interfere with no Constitutional compacts; we shall organize no John Brown raids; if some John Brown should go down and whip Virginia, and get hung for it, it shall not be our fault, but his misfortune; and while we stand by and let them hang the John Browns, we shall take the hint, follow the wholesome example, and hang every traitor who sets to work in earnest to dissolve the Union. [Applause.] But the majority must rule, and that is the end of the whole matter. [Laughter.]

But here somebody recovers his wits and seems to address me—"Colonel

Baker Senator. The latter, defeated in California in November, 1859, removed to Oregon in February, 1860. The Legislature of that State convened in the following September, being divided into three nearly equal elements,—Douglas Democrats, Administration Democrats, and Republicans, the first named leading slightly. There were two Senators to be chosen—one for a term of which a year and a half had expired, and one for a full term of six years from the 4th of March next coming. By a combination between the Douglas Democrats and the Republicans, Nesmith and Baker were elected, Baker taking the place already vacant, and proceeding at once to Washington via San Francisco.

Baker, what say you at Seward's 'irrepressible conflict'?" Why, this: If Mr. Seward had that opinion, I think he did right to express it. And, I apprehend, it 's your opinion, too. [Laughter.] You don't think slavery is going to last forever. God is too good for that. A thousand years are as one day in his sight, and it may take some time for slavery utterly to decay! I hope disease won't last always; I don't know that death will. I very much doubt if slavery will. You Breckinridge men, if there is a little vein of piety in you, inherited from your mother [laughter], even you must hope that slavery will be abolished some day. Henry Clay—and he was no Abolitionist—used to felicitate himself that, by the freed slaves of our land, civilization would yet be carried to the banks of the Niger. Read Pope's "Messiah"—I don't know that Pope was an Abolitionist—though inspired poets are apt to be. [Applause.] Homer was, Shakespeare was, the Bible

was,—and Pope would be in very good company if he was. So long as there is a slave and a master in the world, the slave's heart will throb for freedom. Educate him, and he will fight for it; nerve him, and he will die for it; and you, to save your soul, can't help saying "Hurrah for the weaker side!" [Cheers.] I would shoulder my rifle to suppress insurrection; and yet in my own impulses, in the depth of my own reflection, I feel that if Mr. Seward, looking forward with the eye of statesmanship and philosophy, said the conflict was irrepressible, God go with him! I indorse the sentiment. [Tremendous cheers.]

But my inquiring friend forgets how Mr. Seward qualified the remark—that it was by and under the Constitution, and not otherwise, that the conflict was to go on. And at last it is but the opinion of a great philosopher and statesman referring the matter to an all-wise Providence.

The American Theater Speech.

Up in my country we often see men afraid of being suspected of sympathizing too much with the negro. One was saying there the other day "I ain't one of your d—d Abolitionists; why, my uncle had a nigger." [Laughter.] Now, I am very willing to, and I will confess—I have a sympathy with the negro race, with all slaves, with all who are in sorrow and misfortune—and would to God I could deliver them all! [Applause.] I have sympathy with a man who has a scolding wife, or a smoky chimney, or the fever and ague; though I might not advise my friend to whip his wife, or pull down his chimney, or take arsenic for his fever and ague—nor do I feel myself bound to run a tilt to free all negroes. When I go to church, and the preacher says, "Have mercy upon all men!" I don't respond, "Good Lord! upon all *white* men!" They make the mistake of supposing that if we have human feelings, we are plotting against them. We live

in a land of constitutional law. Whatever is nominated in the bond, we abide. If I own ten thousand cattle, worth one hundred thousand dollars, I have but one vote, and that is my own. If another owns one hundred negroes, worth one hundred thousand dollars, he has sixty votes; the ownership of five negroes conveys the right of three votes—equals the representative power of three white men.

That is hard, but it is in the bond, and we abide it. It is hard to compel me to give up to slavery a man on your simple affidavit that he is a slave. But it is in the compact, and we stand it.

There need be no fear of intestine feuds; there need be no threats of disunion. In the presence of God,—I say it reverently,—freedom is the rule, and slavery the exception. It is a marked, guarded, perfected exception. There it stands! If public opinion must not touch its dusky cheek too roughly, be it so; but we will go no further than the terms

of the compact. We are a city set on a hill. Our light cannot be hid. As for me, I dare not, I will not be false to freedom! [Applause.] Where in youth my feet were planted, there my manhood and my age shall march. I will walk beneath her banner. I will glory in her strength. I have seen her, in history, struck down on a hundred chosen fields of battle. I have seen her friends fly from her; I have seen her foes gather around her; I have seen them bind her to the stake; I have seen them give her ashes to the winds, regathering them that they might scatter them yet more widely. But when they turned to exult, I have seen her again meet them face to face, clad in complete steel, and brandishing in her strong right hand a flaming sword red with insufferable light! [Vehement cheering.] And I take courage. The Genius of America will at last lead her sons to freedom! [Great applause.]

People of California! you meet soon,

as is your custom every four years, to conduct a peaceful revolution. There is no danger here. Disunion is far away. The popular heart is right. It is a plain, honest, simple duty you have to perform. All the omens are good, and the best of omens is a good cause. On the Pacific coast we have labored long; we have been scoffed, beleaguered, and beset. One year ago, I, your champion, in your fair State, my own State then, was beaten in a fair contest! With my heart somewhat bruised, my ambition crushed, one week later I stood by the body of my friend Broderick, slaughtered in your cause, and I said "How long?" [Sensation.] The tide is turned. The warrior, indeed, rests. He knows no waking; nor word, nor wish, nor prayer, can call him from his lone abode. I speak to those who loved him; and in another and higher arena I shall try to speak for him [a rumble of applause, increasing at last to a great demonstration], and I shall say

that the people who loved him so well, and among whom his ashes rest, are not forgetful of the manner of his life, or the method of his death.

People of San Francisco! you make me very happy and very proud. Your kind words cheer, as they have often cheered before. Another State, generous and confiding beyond any man's deserts, has placed me where I may serve both her and you. And now, thanking you again and again, I bid you a cordial, affectionate, heartfelt farewell. [The whole audience arose and cheered and cheered again. It was half after ten, and the orator had spoken two hours and a quarter.]

THE REPLY TO BENJAMIN

ONLY ten days were to intervene between the delivery of the American Theater speech and the Presidential election, but the speech was at once put in type and scattered over the State as a campaign document. Abraham Lincoln's election as President followed, Baker's *two States* voting for him. The new Senator proceeded to Washington City, and was sworn in on Wednesday, the 5th of December, 1860, for an unexpired term to end on the 3d of March, 1865. It was under the caption of "New Senator" that the official "Congressional Globe" recorded the fact of his qualification, Senator Latham, of California, presenting his credentials. Just four weeks later, on Wednesday, the 2d of January, 1861, in the new arena of his fame, he made the first of his two remarkable and celebrated "Replies"—the "Reply to Benjamin." No intelligent visitor, uninformed on the point, could have mistaken him for a "new Senator" then. He was never more fluent and self-possessed, and commanded the undivided attention, the unqualified admiration, of the Senate from beginning to end. Indeed, this reply, and that to Breckinridge, that was soon to follow, are among the most powerful performances in debate in the history of the American Congress.

It was in the closing days of the last Congress before the War of the Rebellion. The Southern Senators and Representatives were beginning to leave their seats. In sixty days President Lincoln was to be inaugurated, and, in sixty more, the South was to be in open revolt, and the country in actual war. Messrs. Slidell and Benjamin of Louisiana were to withdraw from the Senate on February 5th. On December 13th, Senator Johnson, of Tennessee, (who became President in 1865,) had offered a joint resolution, proposing certain amendments to the Constitution. These provided that the President and Vice-President

should be chosen by the people, by Congressional districts, each district to have one vote. The resulting debate, which covered a period of weeks, was directed, generally, to the critical condition of the country. Senator Benjamin concluded a great speech on the subject, on the closing day of the year. Senator Baker took the floor to reply on January 2d.

At the morning hour appointed for Baker to begin his speech Senator Gwin, of California, reminded the Senate that the bill passed by the lower house for a Pacific railroad, would come up at two o'clock that afternoon, as the special order of the day; and he said that perhaps the Oregon Senator would not be able to conclude before that hour.

Senator Douglas, of Illinois, who had given notice of a speech by him for the following day, also suggested that he and the Oregon Senator might clash. There was considerable discussion as to what should be the order of precedence, which Baker interrupted to say:—

"I did not quite hear what the honorable Senator from California said upon the subject of the Pacific railroad bill, which I understand to be the special order for to-day at two o'clock; but, coming from the Pacific coast, I feel it my duty to say, promptly and decidedly, that I cannot feel for an instant that any word of mine for the Union and the perpetuity of free government on this continent can compare in importance or value with the Pacific railroad bill, which, in my judgment, is an act tending to make perpetual the union of these States. Therefore, I yield any pretension that I may have to the floor now, at two o'clock, at any time, or, if need be, forever, that that bill may pass."

It was then Thursday. It was moved that the special order be postponed to Saturday, and that the floor be reserved for Senator Douglas on Monday. During the discussion Senator Trumbull, of Illinois, who knew what was in the old Illinois Whig, showed much concern lest something should occur to postpone for some days, or perhaps indefinitely, the delivery of the expected effort.

The Reply to Benjamin.

He said in plain terms, that certain Senators were wasting time. Baker again arose, and with that delightful urbanity that was one of his principal forces, said:—

"Quite unused to the courtesies of the Senate, and quite willing to submit to its habit, I feel myself entirely unable to discuss these questions of precedence or regularity, and profess myself totally indifferent at what time I speak, or when I speak, or really whether I speak at all. I will give way to the Senator from Illinois, or the Senator from California, or to the Pacific railroad bill. I submit myself entirely to the courtesy and justice of the Senate."

The plan to clear the way for Baker was at length agreed to unanimously. He took the floor, and entertained the Senate with the best speech it had heard (in the judgment of many discriminating minds) since the days of Webster. Not until then did his warmest admirers on the Pacific know of the rapidity of his mental processes. He promptly grasped the scepter in debate. He spoke then, as on lesser occasions, in that atmosphere of enthusiasm in which he lived. He stood an intellectual master in that great presence, and every mind deferred to his persuasive authority.

THE REPLY TO BENJAMIN.

Mr. President, the adventurous traveler who wanders on the slopes of the Pacific, and on the very verge of civilization, stands awestruck in that great chasm formed by the torrent of the Columbia, as, rushing between Mount Hood and Mount St. Helen's, it breaks through the ridges of the Cascade Mountains to find the sea. Nor is his wonder lessened when he hears his slightest tone repeated and re-echoed with a larger utterance in reverberations that lose themselves at last amid the surrounding and distant hills. So I, standing on this spot, and speaking for the first time in this chamber, reflect with astonishment that my feeblest word is re-echoed, even while I speak, to the confines of the Republic. I trust, sir, that in so speaking, in the midst of such an auditory, and in the

presence of great events, I may remember all the responsibility these impose upon me to perform my duty to the Constitution of the United States, which I have sworn to support, and to be in no wise forgetful of my obligation to the whole country, of which I am a devoted and affectionate son.

It is my purpose to reply, as I may, to the speech of the honorable and distinguished Senator from the State of Louisiana. I do so because it is, in my judgment at least, the ablest speech which I have heard, perhaps the ablest I shall hear, upon that side of the question; because it is respectful in tone and elevated in manner; and because, while it will be my fortune to differ from him upon many—nay, most—of the points to which he has addressed himself, it is not, I trust, inappropriate for me to say that much of what he has said, and the manner in which he has said it, has tended to increase the personal respect—nay, I

may say, the admiration—which I have learned to feel for him. And yet, sir, while I say this, I am reminded of the saying of a great man—Dr. Johnson, I believe—who, when he was asked for his critical opinon upon a book just then published, and which was making a great sensation in London, said: "Sir, the fellow who has written that has done very well what nobody ought ever to do at all."

The entire object of the speech is, as I understand it, to offer a philosophical and Constitutional disquisition to prove that the Government of these United States is, in point of fact, no government at all; that it has no principle of vitality; that it is to be overturned by a touch, dwindled into insignificance by a doubt, dissolved by a breath; not by maladministration merely, but in consequence of organic defects, interwoven with its very existence.

But, sir, this purpose—strange and

mournful in anybody, still more so in him—this purpose has a terrible significance now and here. In the judgment of the honorable Senator, the Union is this day dissolved; it is broken and disintegrated; civil war is a consequence at once necessary and inevitable. Standing in the Senate chamber, he speaks like a prophet of woe. The burden of the prediction is the echo of what the distinguished gentleman now presiding in that chair has said before—[Mr. Iverson in the chair]—"Too late! too late!" The gleaming and lurid lights of war flash around his brow, even while he speaks. And, sir, if it were not for the exquisite amenity of his tone and his manner, we could easily persuade ourselves that we saw the flashing of the armor of the soldier beneath the robe of the Senator.

My purpose is far different; sir, I think it is far higher. I desire to contribute my poor argument to maintain the dignity, the honor of the Government

under which I live, and beneath whose august shadow I hope to die. I propose, in opposition to all that has been said, to show that the Government of the United States is in very deed a real, substantial power, ordained by the people, not dependent upon States; sovereign in its sphere; a union, and not a compact between sovereign States; that, according to its true theory, it has the inherent capacity of self-protection; that its Constitution is a perpetuity, beneficent, unfailing, grand; and that its powers are equally capable of exercise against domestic treason and against foreign foes. Such, sir, is the main purpose of my speech; and what I may say additional to this, will be drawn from me in reply to the speech to which I propose now to address myself.

Sir, the argument of the honorable Senator from Louisiana is addressed first — I will not say mainly — to establish the proposition that the State of South

Carolina, having, as he says, seceded, has seceded from this Union rightfully; and, sir, just here he says one thing, at least, which meets my hearty approval and acquiescence. He says he does not deem it—such is the substance of the remark—unwise or improper to argue the right of the case even now and here. In this I agree with him most heartily.

Right and duty are always majestic ideas. They march an invisible guard in the van of all true progress; they animate the loftiest spirit in the public assemblies; they nerve the arm of the warrior; they kindle the soul of the statesman and the imagination of the poet; they sweeten every reward; they console every defeat. Sir, they are of themselves an indissoluble chain, which binds feeble, erring humanity to the eternal throne of God. I meet the discussion in that spirit. I defer to that authority.

I observe, sir, first, that the argument of

the gentleman, from beginning to end, is based upon the assumption that the Constitution of the United States is a compact between sovereign States. I think I in no sense misapprehend it; I am sure such cannot be my desire. I understand him, throughout the whole tone of his speech, to maintain that proposition — that the Constitution of the United States is a compact between sovereign States. Arguing from thence, he arrives at the conclusion that being so, a compact, when broken by either of the other States, or by the General Government, the creature of the Constitution, South Carolina or Louisiana may treat the compact as broken, the contract as rescinded; may withdraw peacefully from the Union, and resume her original condition.

I remark next, that this proposition is in no wise new; and perhaps for that, as it is a Constitutional proposition, it is all the better; and again, the argument by which the honorable Senator seeks

to maintain it is in no wise new in any of its parts. I have examined with some care the arguments hitherto made by great men, the echoes of whose eloquence yet linger under this dome; and I find that the proposition, the argument, the authority, the illustration, are but a repetition of the famous discussion led off by Mr. Calhoun, and growing out of the attempt of South Carolina to do before what she says she has done now.

If the proposition is not new, and if the arguments are not strange, it will not be wonderful if the replies partake of the like character. I deny, as Mr. Webster denied; I deny, as Mr. Madison denied; I deny, as General Jackson denied, that this Union is a compact between sovereign States at all; and so denying, I meet just here the authorities which the honorable Senator has chosen to quote. They are, substantially, as follows: first, not the Constitution itself (and that is remark-

able); second, not the arguments made by the great expounders of the Constitution directly upon this question, and on this floor; but mainly fugitive expressions, sometimes hasty, not always considered, upon propositions not germane to the controversy now engaging us to-day; and when made, if misapprehended, corrected again and again in after years. To illustrate: the gentleman from Louisiana has quoted at considerable length from the debates in the convention which formed the Federal Constitution; he has quoted the opinions of Mr. Madison, and to those who have not looked into the question it might appear as if those opinions were really in support of his proposition that this is a compact between sovereign States. Now, sir, to show that that is in no sense so, I will read, as a reply to the entire quotations of the opinions of Mr. Madison, what Mr. Madison himself said upon that subject upon the fullest consideration in the world. I

proceed to read what I suppose to be at once argument and authority upon that question—I read the letter of Mr. Madison to Mr. Webster, dated March 15, 1833.

[Letter read.]

Mr. President, I submit to the candor of the Senator from Louisiana that this is distinct, positive, unequivocal authority to show that, so far as the opinions of Mr. Madison were concerned, he did not believe that the Constitution of the United States was a compact between sovereign States; but that he did believe it was a form of government ordained by the people of the United States.

Again: Mr. Webster is quoted. I expected, when I heard Mr. Webster named, to find that the honorable Senator would allude to the great discussion which his genius had rendered immortal. He does not do that; but refers specifically to a passage of Mr. Webster's in an argument in the Supreme Court, I believe, upon a question arising as to

boundary between Massachusetts and Rhode Island.

Mr. BENJAMIN. If the Senator will permit, he is mistaken. The question that arose there was in relation to the power of the people of Rhode Island to constitute a new government, not a question of boundary. I allude to his argument in the celebrated Dorr controversy.

Mr. BAKER. I feel obliged to the Senator for his correction; and I beg leave to say that the mistake perhaps is not a very unnatural one in me, living so many thousand miles away; for, really, Rhode Island, though very patriotic, is so very small that I do not quite keep up with her history as I ought. It is no sort of difference whether Mr. Webster made the speech on a boundary question or on a rebellion question; the speech was made. My criticism upon the quotation is this: It has no relation whatever to the controvesy now here, or, if it has, it is so remote and indistinct

that it becomes him and me alike, to refer to what Mr. Webster really did say directly upon the controversy itself. Now, I take the liberty of reading Mr. Webster's views, as expressed and considered by himself. I read from Mr. Webster's works, volume three, page 464:—

"And now, sir, against all these theories and opinions, I maintain—

"1. That the Constitution of the United States is not a league, confederacy, or compact between the people of the several States in their sovereign capacities; but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

"2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that consequently there can be no such thing as secession without revolution.

"3. That there is a supreme law, consisting of the Constitution of the United States, and acts of Congress passed in pursuance of it, and treaties; and that in cases not capable of assuming the character of the suit in law or equity, Congress must judge of, and finally interpret, this supreme law so often as it has occasion to pass acts of legislation; and in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter."

Now, I submit again to the candor of the honorable and distinguished gentleman, that there is the positive, unmistak-

able evidence of Mr. Webster, so far as his own opinion goes; that this is not, according to his proposition, a compact between sovereign States; but it is a government made and ordained by the people of the whole United States; a government capable of acting directly upon individuals, and made by individuals. And, sir, it is remarkable that these propositions of Mr. Webster grew out of his desire to contradict the affirmative propositions of Mr. Calhoun, upon which the debate grew up. I read them:—

"The first two resolutions of the honorable member, [says Mr. Webster,] affirm these propositions, namely"—

And they are propositions sought to be enforced by the distinguished Senator from Louisiana—

"1. That the political system under which we live, and under which Congress is now assembled, is a compact, to which the people of the several States, as separate and sovereign communities, are the parties.

"2. That these sovereign parties have a right to judge, each for itself, of any alleged violation of the Constitution by Congress, and in case of such violation, to choose, each for itself, its own mode and measure of redress."

There, sir, is the right of secession upon the one hand, or at least of nullification; and I may say here, once for all, the difference between nullification and secession is just this: secession bears the same relation to nullification that biography bears to history, somebody having wittily said that history was biography with its brains knocked out. I understand that nullification is just secession with its brains knocked out; and every argument applying to the one applies to the other. So much for the second authority upon which the distinguished Senator from Louisiana relies.

I now come to the third; and I trust he will allow me to correct for him what I know was an oversight, or, at least, an entire misapprehension. The honorable gentleman from Louisiana, during the course of his speech, remarked, as I remember it, that a valued friend had placed in his hands a paper, from which

he read, purporting to be the opinion of John Quincy Adams upon this question of the right of a State to secede. I did not understand him as reading from a manuscript of his own copy, but from a paper placed in his hands, and perhaps about the moment, by somebody else.

Mr. BENJAMIN. So far as that is concerned, the paper that I read from was sent to me as I read it, from a valued friend from New York. As to the speech of Mr. Adams, of course I cannot tell anything about it; I have never seen it.

Mr. BAKER. The reason why I say this it is proper to state here. It is a remarkable fact that of all the passages ever written by John Quincy Adams, of all the passages ever written by anybody from the beginning of the world, that passage, taken altogether, part of which was read by the honorable Senator from Louisiana, is the passage, of all others, which maintains the doctrine of the oneness of this Government, its unity,

its creation by the people, its ordination by them as one government, and an entire annihilation of the whole doctrine of secession. The difficulty was this: that the gentleman who furnished it, and who caused the unwitting reading of it, I have no doubt, in its mutilated condition, by the Senator from Louisiana, omitted the most remarkable part of the whole passage; and it is more remarkable in this—it is for that reason I hasten to acquit my distinguished friend of any knowledge of the misapprehension—that it is in the very same paragraph; and there had to be in that paragraph this very same process of separation and disunion which is getting to be fashionable nowadays, to make it bear upon the Senator's view of the question at all. I will read it. It begins in this wise:—

"In the calm hours of self-possession, the right of a State to nullify an act of Congress is too absurd for argument, and too odious for discussion. The right of a State to secede from the Union is equally disowned by the principles of the Declaration of Independence."

The Reply to Benjamin.

Now, sir, there follows after that the passage read by the distinguished gentleman. It is a passage, as I understand it, incorporated in his speech, which presents the opinion of Mr. Adams that there may be extreme cases in which a State or a community has a right to revolutionize. So much for the third authority quoted by the distinguished Senator.

Now, speaking of authorities, let me add once more, that this speech of Mr. Adams, entitled the Jubilee of the Constitution, delivered by him with all his exhaustive power as to any subject to which he turned his attention, is, in point of fact, an irresistible argument in favor of our proposition that the Constitution of the United States is an ordained government by the people for the government of the people, and that it is in no sense, and can never be, taken or considered as a compact between sovereign States. Nay, sir, throughout the whole

course of that speech he goes much further. He argues with great power, and with great historical research, to show that not only is the Constitution of the United States a government formed by the people and not a compact between States, but that the old Confederation, prior to the Constitution, was intended to be that form of government also; that really the people of the thirteen revolting or revolutionary colonies intended, even at the time of the Declaration of Independence, preceding both the Constitution and the Confederation, to form then a united government of one common people.

And yet once more, sir, I quote from General Jackson. It is an authority which I trust the distinguished gentleman will revere. As I have said, South Carolina attempted to do once before what it is said she has accomplished now. There was then a President of the United States determined to do his whole duty.

Whether there be now, I leave others to determine:—

"The States severally have not retained their entire sovereignty. It has been shown that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties, declare war, levy taxes, exercise exclusive judicial and legislative powers, were all functions of sovereign power. The States, then, for all these important purposes, were no longer sovereign. The allegiance of their citizens was transferred in the first instance to the Government of the United States; they became American citizens, and owed obedience to the Constitution of the United States."

Another mistake which (speaking with great deference) I think is obvious throughout the whole speech of the Senator from Louisiana, is the assumption, not only that the Constitution is a compact, but that the States parties to it are sovereigns. Sir, they are not sovereigns; and this Federal Government is not sovereign. Paraphrasing the Mahometan expression, "There is but one God," I may say, and I do say, not without reverence, there is but one sovereign, and that sovereign is the people. The State government is its creation; the Federal

Government is its creation; each supreme in its sphere; each sovereign for its purpose; but each limited in its authority, and each dependent upon delegated power. Why, sir, can that State—either Oregon or South Carolina—be sovereign which relinquishes the insignia of sovereignty, the exercise of its highest powers, the expression of its noblest dignities? Not so. We can neither coin money, nor levy impost duties, nor make war nor peace, nor raise standing armies, nor build fleets, nor issue bills of credit. In short, sir, we cannot do—because the people, as sovereigns, have placed that power in other hands—many, nay, most, of those things which exhibit and proclaim the sovereignty of a State to the whole world. Mr. Webster has well observed that there can be in this country no sovereignty in the European sense of sovereignty. It is, I believe, a feudal idea. It has no place here. I repeat, we are not sovereign here. They are

not sovereign in South Carolina; they are not, and cannot be in the nature of the case; and therefore all assumptions and all presumptions arising out of the proposition of sovereignty—supremacy upon the part of a State—is a fallacy from beginning to end.

Again, sir: Mr. Calhoun, in the course of that celebrated argument, in well-chosen words, insisted that the States in their sovereign capacity, acceded to a compact. Mr. Webster replied with his usual force. The word "accede" was chosen as the converse of "secede"; the argument being intended to be that if the State accedes to a compact she may secede from that compact. But, said Mr. Webster,—and no man has answered the argument, and no man ever will,—it is not an accession to a compact at all; it is not the formation of a league at all; it is the action of the people of the United States carrying into effect their purpose from the Declaration of Independence

itself, manifested in the ordination and establishment of a government, and expressed in their own emphatic words in the preamble of the Constitution of the United States itself.

In arguing upon the meaning and import of the Constitution, I had hoped that a lawyer so distinguished as the gentleman from Louisiana, would have referred to the terms of that document to have endeavored at least to find its real meaning from its force and mode of expression. In the absence of such a quotation, I beg leave to remind him that the Constitution itself declares by whom it was made, and for what it was made. Mr. Adams, reading it, declares that the Constitution of the United States was the work of one people—the people of the United States—and that those United States still constitute one people; and to establish that, among other things, he refers to the fact—the great, the patent, the glorious fact—that the Constitution

declares itself to have been made by the people, and not by sovereign States, but by the people of the United States; not a compact, not a league, but it declares that the people of the United States do ordain and establish a government. Now, I ask the distinguished Senator, what becomes of this iteration and reiteration, that the Constitution is a compact between sovereign States?

Pursuing what I think is a defective mode of reasoning from beginning to end, the distinguished Senator from Louisiana quotes Vattel, and for what? To prove what, as I understand, nobody denies — that a sovereign State, being sovereign, may make a compact, and afterwards withdraw from it. Our answer to that is, that South Carolina is not a sovereign State; that South Carolina has not made a compact, and that, therefore, it is not true that she can withdraw from it; and I submit that all these disquisitions upon the nature of European

sovereignty, or any of those forms of government to which the distinguished author which he has quoted had his observation attracted, is no argument whatever in a controversy as to the force and meaning of our Constitution bearing upon States, sovereign in some sense, not sovereign in others, but bearing most upon individuals in their individual relations.

But the object of the speech was twofold. It was to prove, first, that this Union was a compact between States, and that, therefore, there was a rightful remedy for injury, intolerable or otherwise, by secession. Now, sir, I confess in one thing I do not understand this speech, although it be clearly written and forcibly expressed. Does the Senator mean to argue that there is such a thing as a Constitutional right of secession? Is it a right under the Constitution, or is it a right above it and beyond it?

Mr. BENJAMIN. I do not know whether the Senator desires an answer now.

Mr. BAKER. Yes, sir; now.

Mr. BENJAMIN. Well, sir, I will take example from gentlemen on the other side, and I will answer his question by asking another.

Mr. BAKER. Do, sir.

Mr. BENJAMIN. I will ask him if the State of South Carolina were refused more than one Senator on this floor, whether she would have a right to withdraw from the Union, and if so, whether it would arise out of the Constitution or not.

Mr. BAKER. Now, Mr. President, I will do what the distinguished Senator from Louisiana has not done: I will answer the question. [Laughter.] He asks me whether if the State of South Carolina, sending two Senators here loyally, with affectionate reverence for the Constitution, were denied the admission of one, or, if you like, of both, it would be cause for withdrawal. I understand that to be the question. Sir, I reply: that

would depend upon several things yet to be stated and determined: First, I think South Carolina ought to inquire what is the cause of that refusal. I believe this body is the judge of the qualification of its own members. If the Senator was disqualified, or if in any fair judgment or reasonable judgment we believed he ought not to occupy a seat upon this floor, surely it would not be cause of withdrawal, or secession, or revolution, or war, if we were to send him back.

But, sir, I will meet the question in the full spirit in which I suppose it is intended to put it. It is this: the right of representation is a sacred right. If that right is fraudulently and pertinaciously denied, has the State to which it is denied a right to secede in consequence thereof? I answer, the right of representation is a right, in my judgment, inalienable. It belongs to all communities, and to all men. It is of the very nature and essence of free government; and if, by force, by

despotism of the many over the few, it is denied, solemnly, despotically, of purpose, the intolerable oppression resulting from that may be repelled by all the means which God and nature have put in our hands. Is the honorable Senator answered?

Mr. BENJAMIN. Not yet.

Mr. BAKER. What, sir?

Mr. BENJAMIN. I was saying to the Senator, not yet. I asked him whether he denied the fact that, in the supposed case, which he has very fairly met, the right to withdraw resulted from the breach of the agreement in the Constitution, and would be a right growing out of the violation of the Constitution, independent of the question of oppression at all?

Mr. BAKER. Well, sir, I beg leave to say, in answer to that, that is not the question the honorable Senator put to me, but I will answer that. The right of South Carolina to withdraw, because

the fundamental right of representation is denied her, is the right of revolution, of rebellion. It does not depend upon Constitutional guarantees at all. It is beyond them, above them, and not of them. Now, is the Senator answered?

Mr. BENJAMIN. I am fully answered. I am only surprised at the answer.

Mr. BAKER. Now, will the distinguished Senator answer me?

Mr. BENJAMIN. With pleasure. Will the Senator state his question once more?

Mr. BAKER. Is there such a thing as a Constitutional right of South Carolina to secede?

Mr. BENJAMIN. I thought, Mr. President, that my proposition on that subject could not be mistaken. I hold that there is, from the very nature of the Constitution itself, from the theory upon which it is formed, a right in any State to withdraw from the compact, if its provisions are violated to her detriment.

Mr. BAKER. Well now, sir, I under-

stand what I did not quite understand before,—no doubt it was owing to my obtuseness,—that the gentleman contends that there is in the State of South Carolina a right to secede, to use his own words, in the very nature of the Constitution itself.

Mr. BENJAMIN. Resulting from the very nature of the compact, which I consider the Constitution to be.

Mr. BAKER. But that, Mr. President, is not what the Senator did say. I press him on this point again. Does the right to secede spring out of and belong to the Constitution. And if so, where? I am a strict constructionist.

Mr. BENJAMIN. I am, too; and if the Senator will admit with me, what I suppose he will scarcely deny, that the States have reserved to themselves under the Constitution, by express language, every right not expressly denied to them by the Constitution, I say that he will find in the ninth and tenth amendments

to the Constitution the recognition of the very right which I claim.

Mr. Baker. Well, sir, the answer to that is just this: that we have been endeavoring to show—and I think irresistibly—that, so far from its being true that the States do reserve to themselves in the Constitution all rights not delegated by it, they do not reserve anything, for they are not parties to it; and there is no such thing as a reservation by the States at all. The instrument is made by the people; and the reservations, if any, are made by the people, not the States.

Mr. Benjamin. If I am not intruding upon the Senator's line of argument or time—and if I am I will not say another word——

Mr. Baker. Not at all.

Mr. Benjamin. I ask the Senator whether, after the Constitution had been framed, amendments were not proposed by nearly all the States and adopted, for

the very purpose of meeting that construction for which he is now contending —for the very purpose of maintaining the proposition against which he now argues? His idea is that the Constitution of the United States formed a government over the whole people as a mass. The amendments state distinctly that that was not the meaning of the Constitution; but that, on the contrary, it was a delegation of power by the States, and that the States and the people of the States reserved to themselves all powers not expressly delegated.

Mr. Baker. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people,"—that is the amendment. Now, in answer, I say that, in full light of that amendment, every authority which I have read, every argument at which I have glanced, from Jackson, from Madison, from Webster, from

Adams, all unite in the proposition that still this is a government made by the people of the United States in their character of people of the States, being one government by them ordained.

Mr. BENJAMIN. Will the Senator be good enough to allow me to call his attention to the seventh and last article of the Constitution, "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same,"—not read the preamble, but the bargain.

Mr. BAKER. Where shall I find it, sir?

Mr. BENJAMIN. In the very last article of the Constitution.

Mr. BAKER. I am not sure that I understand the force of the distinction which the honorable gentleman makes between the preamble and the Constitution itself. Following the example of Mr. Webster, I love to read the whole instrument together; but I will answer the Senator:—

"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

Mr. BENJAMIN. "Between the States."

Mr. BAKER. Mr. President, what are the conventions of nine States but the people of nine States? There is the answer at once. It is not ratification by the State Legislature.

Mr. BENJAMIN. What is the meaning of the phrase "between the States"? Is not that the language of compact?

Mr. BAKER. Well, it is obvious enough. Ratification is to be done by the people. It is made by the people in the first place. It so proposes. It is to be ratified by them in the second place; and being so made by them, and being so ratified by them, is binding upon the States, which are the governments of the people that ratified it. That is all. But, sir, the Senator does not escape in that way. I ask him yet once again, is the right to secede a right growing out of the Constitution itself? If so, where? What is

that provision? I repeat, I am a strict constructionist. He says he is. I am not now going to hunt for a vagrant and doubtful power; but when States propose to secede, to dissolve the Union, to declare war, to drench confederated States in fraternal blood, I ask if they claim it as a Constitutional right to take the step that will inevitably lead to that? I ask for the word, the page, the place, and I meet no reply.

Mr. BENJAMIN. I again refer the Senator to the words and place. If the right of secession exists at all, under any circumstances, revolutionary or not, it is a State right. Now, the question whether it exists under the Constitution or not, can only be determined in one way: first, by examining what powers are prohibited to the States; and next, whether the powers not prohibited are reserved. This power is nowhere prohibited; and the tenth amendment declares that the powers not prohibited by the Consti-

tution to the States are reserved to the States.

Mr. Baker. Mr. President, I do not perceive the importance, nay, the profit, of pursuing that line of inquiry any further. I have asked for the answer of the honorable Senator to that question; and if with that answer he is content, and if by that answer he intends to abide, so be it. I think that we have well disposed of the right of secession under the Constitution itself. I advance to another proposition.

I admit that there is a revolutionary right. Whence does it spring? How is it limited? To these questions for a moment I address myself. Whence does it spring? Why, sir, as a right in communities, it is of the same nature as the right of self-preservation in the individual. A community protects itself by revolution against intolerable oppression under any form of government, as an individual protects himself against intolerable

oppression by brute force. No compact, no treaty, no constitution, no form of government, no oath or obligation can deprive a man or a community of that sacred, ultimate right. Now, sir, I think I state that proposition as fully as I could be desired to state it by the gentleman upon the other side. The question that arises between us at once is: this right of revolution springing out of the self-preservation belonging to communities, as to individuals, must be exercised—how? In a case, and in a case only, where all other remedies fail; where the oppression is grinding, intolerable, and permanent; where revolution is in its nature a fit redress; and where they who adopt it as a remedy can do it in the full light of all the examples of the past, of all the responsibilities of the present, of all the unimpassioned judgment of the future, and the ultimate determination of the Supreme Arbiter and Judge of all. Sir, a right so exercised is a sacred right. I maintain it; and I would

exercise it. The question recurs: has South Carolina that right?

I think the honorable Senator will not deny that one of the gravest responsibilities which can devolve upon a community or a State is to break up an established, peaceful form of government. If that be true as an abstract proposition, how much more does the truth strike us when we apply it to the condition in which we found ourselves two months ago! South Carolina proposes now, according to the later doctrine, to secede as a revolutionary right; as a resistance against intolerable oppression; as an appeal to arms for the maintenance of rights, for the redress of wrongs, where the one cannot be maintained and the other be redressed otherwise. Now, sir, I demand of her and of those who defend her, that she should stand out in the broad light of history and declare, if not by the Senators that she ought to have on this floor, by those who league with her, in what that oppres-

sion consists; where that injury is inflicted; by whom the blow is struck; what weapon is used in the attack. So much, at least, we have a right to inquire. After we make that inquiry, permit me to add another thing: a State claiming to be sovereign and a people part of a great government ought to act with deliberation and dignity; she ought to be able to appeal to all history for kindred cases of intolerable oppression, and kindred occasions of magnanimous revolution.

Sir, we are not unacquainted in this chamber with the history of revolutions. We very well know that our forefathers rebelled against the domination of the house of Stuart. And why? The causes are as well known to the world as the great struggle by which they maintained the right, and the great renown which has forever followed the deed. When Oliver Cromwell brought a traitorous, false king, and gave him, "a dim discrowned monarch," to the block, he did it by a solemn

judgment in the face of man and in the face of Heaven, avouching the deed on the great doctrine of revolutionary right; and although a fickle people betrayed his memory—although the traditions of monarchy were as yet too strong for the better thought of the English people—yet, still, now, here, to-day, wherever the English language is read, wherever that historic, glowing story is repeated, the hearts of brave and generous men throb when the deed is avouched, and justify the act.

Again: there was a second revolution —the revolution of 1688;—and why? Because a cowardly, fanatic, bigoted monarch sought, by the exercise of a power to be used through the bayonets of standing armies, to repress the spirit and destroy the liberties of a free people; because he attempted to enforce upon them a religion alien to their thought and to their hope; because he attempted to trample under foot all that was sacred in the constitution of English government.

And, sir, in the history of revolutions there are examples more illustrious still — perhaps the greatest of them all, that revolution which ended in the establishment of the Dutch Republic. My honorable and distinguished friend, I know, has read the glowing pages of Motley, perhaps the most accurate, if not the most brilliant, of American historians. I am sure that his heart has throbbed with generous enthusiasm as he read the thrilling pages of that story where a great people, led by the heroic house of Orange, pursued, through danger, through sacrifice, through blood, through the destruction of property, of homes, of families, and of all but the great indestructible spirit of liberty, the tenor of their way to liberty and greatness and glory at last. Sir, I need not tell him the oppression against which they rebelled; that the intolerable tyranny under which they groaned was of itself sufficient not only to enlist upon their side and in their behalf all the sympathies of civilized

Europe then, but the sympathies of the whole civilized world as they have read the story since.

Yet once more, in the full light of these revolutions, our forefathors rebelled against a tyrant, declaring the causes of the Revolution, proclaiming them to the world in an immortal document that is familiar to us all. We recognize the right. Why? Because the oppression was intolerable; because the tyranny could not be borne; because the essential rights belonging to every human being were violated, and that continually; and in words more eloquent than I could use, or than I have now time to quote, Mr. Jefferson proclaimed them to the world, and gave the reasons which impelled us to the separation. Sir, I ask the honorable Senator to bring his record of reasons for revolution, bloodshed, and war here to-day, and compare them with that document.

If, then, Mr. President, the controversy

is not upon the abstract right of secession, nor upon the revolutionary right of secession in a case fit and proper; but if, at last, it narrows itself down into a discussion of the reasons why South Carolina is to revolt, I propose to enter with a little minuteness of detail into the history of those reasons. I shall find them in several sources: first, chiefest, perhaps best, in the speech now before me of the Senator from Louisiana; secondly, in the very impulsive, very brilliant speech of the honorable Senator from Texas [Mr. Wigfall]; and, if I have time to pursue the search, perhaps in the speech of the excited and excitable Senator from Georgia [Mr. Iverson]. The gentleman from Louisiana says that not devoting very much time to the catalogue, and not giving it with any hope that it will avert the issue of arms, he will yet suggest some of the wrongs and outrages which that "dreary catalogue" presents, as having happened to the State of South Carolina. Before

he does so, however, he says that the wrongs under which she groans, the injuries which justify and demand revolution, are to be found "chiefly in a difference of our construction of the Constitution." Sir, is not that a "lame and impotent conclusion"? I was astonished. I have known—again to quote the words of Mr. Webster—I have known, perhaps I may know again shortly, that there are cases when the war does not always come up to the manifesto; but from the seriousness with which the distinguished Senator approached the subject, I did not expect to find a qualification which would destroy the import and force of his catalogue altogether. Why, sir, can it be that any man in his sober senses will pretend that there can be cause for revolution, war, because two parties in this Government differ as to their construction of one article in the Federal Constitution? Can that be so? And yet, in the face of earth and Heaven, I recall

the fact that the honorable Senator declares that the principal causes of grievance are to be found in a difference in the construction of one article of the Constitution of the United States.

Mr. BENJAMIN. The Senator will pardon me. I do not think he will find that in anything I said.

Mr. BAKER. Far be it from me to misrepresent the gentleman. If I do not find it, I will withdraw what I have said. I quote his words, and they were words well considered, beautifully chosen:—

"Before, however, making any statement — that statement to which we have been challenged, and which I shall make in but very few words — of the wrongs under which the South is now suffering, and for which she seeks redress, as the difficulty seems to arise chiefly from a difference in our construction of the Constitution, I desire to read"—

Something else. Now, sir, I ask him whether I am not justified in saying that his main ground of complaint in his catalogue of dreary outrages and intolerable wrongs, is that that catalogue is founded, to use his own words, chiefly

upon a difference in a construction of the Constitution of the United States?

Mr. BENJAMIN. The Senator will pardon me. He stated that I had said they arose from a difference in the construction of one clause of the Constitution.

Mr. BAKER. Well, sir, let it be "two rogues in buckram," or seven; the idea is the same.

Mr. BENJAMIN. That is it. We have eight or ten grievances; because you all construe the Constitution on the erroneous principles you have announced this morning.

Mr. BAKER. . . . Now, sir, suppose we differed about a dozen articles of the Constitution, what then? I read the catalogue of wrongs, and I find, as a lawyer, that they must refer themselves principally to one. But suppose there are more, what then? There are some things that do not appear to strike the honorable Senator in this connection. For instance, does he remember that although

he may have one construction of the Constitution, and I may have another, there is between us a supreme arbiter, and that upon every conceivable clause about which we may differ, or have differed, that arbiter has decided always upon one side? To begin: there have been debates in this Chamber, and elsewhere, as to the true construction of that clause of the Constitution which requires the rendition of fugitive slaves. I will use that term. There are very distinguished members now upon this floor who have argued with great gravity and wisdom and research and eloquence, that it was intended that the power of rendition should be exercised by States. That question, with all questions kindred to it, about which any of us may have differed, has gone before the Supreme Court of the United States, and has been decided against us, or some of us, and in favor of the Constitutionality of the law as it now stands; and we have yielded to it, not

a submission, but, a better word, obedience. Is not that true?

Again, we have differed in late days—and I am here to show, directly, how late that difference is, and I trust I shall show how ill-considered—as to the construction of the Constitution upon the subject of the government of the Territories. That is not a political question merely. That is capable of being made the subject of a suit in law or equity, under the provisions of the Constitution. That has gone before the Supreme Court of the United States. There has been, as we all agree, a judgment; there has been, as most here contend, a decision; there has been, as everybody admits, an opinion. All three have been adverse to us. Is there in that any cause of complaint?

There are the two points; and as the honorable Senator asks me questions, I will ask him another. Is there any other cause of complaint, except under these two clauses of the Constitution, belong-

ing to the Constitutional controversy? The fugitive slave law is one, the right to take your slaves into the Territories the other. Are there any others?

Mr. BENJAMIN. Undoubtedly, Mr. President. I thought I enumerated six on Monday. If the Senator will do me the honor to read the complaints which I made in behalf of the South, he will find them. Then, if those are not sufficient, I can furnish half a dozen more.

Mr. BAKER. Mr. President, I may remark that those other causes of grievance which, upon an occasion so solemn as that presented by the Senator the other day, were not mentioned in that category, were best left unsummed. If they were not of sufficient importance to be enumerated then, they ought not to be brought up by way of makeweight now. I hold him to his record.

Mr. BENJAMIN. Read.

Mr. BAKER. I have now, as I understand it, presented two main causes of

grievance arising, as he says, out of defective Constitutional construction; and, although I see many specifications, I understand they are all parts of two charges arising out of defective construction upon these two points. For instance, one of the six charges is, that we slander you. Surely we do not do that under the Constitution. We slander you, we vilify you, we abuse you, you say. Well, that is not a Constitutional difficulty, [laughter]; and if my distinguished friend will look at his "dreary catalogue," he will find that, save the two which I have mentioned, the remainder are but amplification, extension of grievances, arising outside of the Constitution, from difference of sentiment, opinions, morals, or habits, and not the cause of Constitutional complaint. Therefore, I am not answered when he says, "Look at my catalogue." I repeat once more, to make it still plainer, that there are but two Constitutional causes of com-

plaint: one in regard to the rendition of fugitive slaves, the other the government of the Territories. The difficulties arise out of those two provisions. All the rest are matters of sentiment, of opinion, of habit, and of morals, which neither constitutions nor laws can cause or cure.

Mr. BENJAMIN. Mr. President, if the Senator wants me to answer whether the difficulties of which the South complains, and in consequence of which she refuses any longer to remain confederated with her sister States at the North, arise exclusively from violations of the rights of the South in relation to her slave property, I answer, yes. He may take one, two, three, five, or six, clauses of the Constitution; they all come back to that single point—your constant, persistent warfare upon our property, instead of using the powers of the Federal Government to protect, preserve, and cherish it.

Mr. BAKER. And thus, Mr. President, after questioning and cross-questioning,

and exercising that power of cross-examination which in courts, and I believe elsewhere, we sometimes call the test of truth, I bring the Senator, as I understand him, at last to agree that when he says in his labored speech the difficulty arises chiefly out of a defective construction of the Constitution by us Black Republicans, or us people of the North, it is to be found upon two subjects: one in relation to the fugitive slave question, and the other to the government of the Territories.

Mr. BENJAMIN. Not simply as to fugitive slaves, but all slaves.

Mr. BAKER. But that is included in this question of territorial government, of the Wilmot Proviso, of the right of the South to take her slaves there, and go where she pleases and as she pleases. These are the questions—

Mr. BENJAMIN. Why, Mr. President, if the Senator will look once again at what I said, he will find that it does not

comprise only a reference to such slaves as escape, but he will find that we refer constantly and openly in debate to organized and persistent efforts on the part of entire bodies of people at the North, with the connivance, with the secret aid of their fellow-citizens, to rob us of our property—not simply not returning such slaves as may escape, but organizing means to take away our property and hide it beyond our reach, and making the fugitive slave law utterly valueless, even if it was executed, by preventing our discovering even where a slave is.

Mr. BAKER. Mr. President, I reply to that, that is nothing more than brilliant amplification. The point that I press the Senator upon is this—he has no reply to it: have you any other difficulty with us about Constitutional construction except upon two subjects? I do not ask you now whether you complain that we rob you of your slaves. That is not the

point. Do we do it under Constitutional construction? I repeat: take the whole tenor of the speech, the complaint, the catalogue, the "dreary catalogue"; it all ends in this: that there are differences of opinion among us of sentiment. You complain of our bad morals and our bad manners; you say we rob you; you say we intend to establish a cordon of free States around you; you say that we are persistent in what we do on this point; but at last, in your better and your more candid moments, you say that the difficulty seems to arise chiefly from a difference in our construction of the Constitution. I add to that (and you will not contradict the addition), that it is a difference in our construction of the Constitution upon two subjects — first, the rendition of fugitive slaves; second, the government of the Territories so as to exclude slavery from those Territories by the power either of the General Government or the Territorial Legislature.

I think we arrive clearly at the points to be debated between us.

Now, sir, first, of the fugitive slave law. What is the construction that we give to the fugitive slave law, of which the Senator complains? I have already answered that question. We did in argument give a construction. We were defeated. The question went before the Supreme Court. We were overruled. We have obeyed that decision loyally ever since. We have never seriously endeavored to repeal it; nor have we as a party, nor as a North, endeavored to defeat its execution. Nay, if we had, that is not within the Senator's counts, because he does not say that the difficulty arises out of malexecution of the fugitive slave law, but out of the differences of opinion between us as to the construction of the Constitution. Here I answer again, and I will quote Mr. Lincoln, about to be inaugurated as President of these United States—a man who seeks to make his

opinions known in all proper ways and upon all proper occasions; a man who, for simplicity of purpose, directness of expression, is not surpassed in this country; a man whose honesty has already worthily passed into a proverb. You will find in the history of the debates, unsurpassed in ability in this country, between the distinguished Senator from Illinois [Mr. Douglas] and the President elect, that he was asked, and for obvious purposes, what his opinion was upon this fugitive slave law question, and he replied:—

"*Question.* I desire to know whether Lincoln to-day stands, as he did in 1854, in favor of the unconditional repeal of the fugitive slave law?

"*Answer.* I do not now, nor ever did, stand in favor of the unconditional repeal of the fugitive slave law."—*Debates of Lincoln and Douglas*, p. 88.

Is that clear and distinct? And, sir, I echo him, not because he is President, but because he is honest and wise and true. I, who want nothing of him; I, who am not, and in no sense can ever be, dependent on him; I reply with him; I, as a

Senator on this floor, repeating the opinion of my constituents, without distinction of party — I, too, say that I am not, have not been, never will be, in favor of the unconditional repeal of the fugitive slave law.

Again, sir: since the passage of that law, the Republican party has sprung into existence. We have had two political campaigns. In one, untried, unorganized, without reasonable grounds for hope, we astonished ourselves, we astonished the country, by our strength. In the other, gathering together all the irresistible elements of freedom in the North and West, we have gained a great political triumph, which we intend to use wisely, but which we intend to guard well. Have we, in any platform, in any resolutions, by any bill, in any way evinced a disposition to repeal that fugitive slave law? Do we not, upon all fit occasions, say that, though many of us believe it is a hard bargain, yet that it is so "nominated in the bond," and we will endure it?

Now, sir, when we make these statements — we have made them in the canvass; I make them more deliberately now — what is the reply? I know it of old. Why, it is said, "While your platform does not propose to repeal the fugitive slave law, there are States which pass personal liberty bills." Will gentlemen listen to our calm, frank, candid reply? First, the sense of the whole North is opposed to nullification, in any way or upon any subject. We will yield obedience — and I have said that it is a better word than submission — to any provision of the Constitution of the United States, as it is construed by the ultimate tribunal. They have, as we understand it, declared that law to be Constitutional, and to that decision we yield. If there be States which have passed laws in violation of it, preventive of it, to hinder, to defeat, to delay it, in my judgment — and, sir, what is of infinitely more consequence, in the

judgment of the North and West — those laws ought to be repealed; not because South Carolina threatens; not because Louisiana will secede: but because we desire to yield obedience to those highest obligations, right and duty, of which I made mention in the commencement of this argument.

But, sir, the honorable and distinguished gentleman upon the other side knows very well that there is very serious and grave debate whether those laws are in any sense unconstitutional. We are told that some of them were made before the fugitive slave law, bearing upon other questions and directed to other objects. We are told that the provisions of many of them are provisions intended to guard and secure personal liberty, independent of any question as to the fugitive slave law. But whether that be so to any extent, or to what extent, we say that if it shall be proved before any competent tribunal, and most

of all, before the Supreme Court of the United States, that those laws, or any of them, in any of their provisions, do hinder, delay, defeat the execution of that law, "reform it altogether." Sir, speaking in my place, with some knowledge of the Republican party, speaking by no authority in the world for the President elect, but speaking of him because I have known him from my boyhood, or nearly so, I say that, when the time arrives that he shall be inaugurated in this capital, and exercise in the chair of the Chief Magistrate all the high responsible duties of that office, he will enforce the execution of all the laws of this Government, whether revenue, or fugitive slave, or territorial, or otherwise, with the whole integrity of his character and the whole power of the Government. Now, I ask my distinguished friend if that is not a fair, frank reply to all the objections he may make as to differences of construction about the fugitive slave law?

Mr. BENJAMIN. If the Senator wants the answer now—

Mr. BAKER. Certainly, sir; let the blow fall now.

Mr. BENJAMIN. It is not at all satisfactory; not in the remotest degree.

Mr. BAKER. My honorable friend will not say that that is a reply. If I were in court, or elsewhere, and not in so grave a body as the Senate of the United States, I would quote two very celebrated lines in reply to that, to the effect that those who suffer from the law do not always have a good opinion of it; but I refrain. I repeat that, in the judgment of reasonable men, that is an answer, and a full and complete answer to the objection made against us, that you are going to secede because of any difference of opinion between us as to the construction of the provisions of the Constitution and our duty about the fugitive slave law.

There are some other observations with which I beg leave to detain the

Senate, however, upon that subject. That can scarcely be considered one of the objections; first, because the State of South Carolina herself, through her only authorized expositor, the Charleston *Mercury*, declares, and has declared, that she believes the fugitive slave law to be unconstitutional anyhow. One of the most distinguished of her sons, Mr. Rhett, repeats and emphasizes the same remark. A distinguished gentleman, the Senator from Georgia, lately occupying the chair, not now in it, [Mr. Iverson,] has said lately upon this floor that the South does not complain of any construction which the North gives to that law; nay, more, that the law is well made, carefully guarded, just to the South, and, so far as the Federal Government is concerned, properly executed.

Now, sir, can that be the ground of complaint about which South Carolina is going out? Will she separate the bonds that have bound us together for

more than seventy years, because she does not think that we quite perfectly obey a law which she herself, in the person of her most distinguished servants, declares to be unconstitutional? Not so, sir. Or will Georgia follow the illustrious example of South Carolina, and desert the Republic, when her representative on this floor declares that upon that subject the North performs all its obligations? These are questions which I leave to their honor and their dignity to decide.

. . . . . .

The Senator from Louisiana tells me that the Southern people have agreed that slavery may be prohibited. How? Sir, in passing the Missouri Compromise bill, they did not merely agree to do it—the act of Congress is not a mere evidence to be used in a court of honor that the people of Louisiana will not interfere with the bargain. That is not it; but the act of Congress is a positive law,

made under the sanction of an oath, in the light of the consciences of the men who agreed to it; and I ask him in all fairness and honor, if he or I to-day vote in this Senate chamber to prohibit slavery in a certain Territory, whether, if we believe that we have no right under the Constitution to do that, we do not violate both the Constitution and our oaths when we render that vote? I think that from this position there is no escape. When Mr. Clay gave that vote, he had no Constitutional doubt. When the South urged it, and the North agreed to it, they who voted had no Constitutional doubt; or if they had, it vanished before the clear light of reason and argument. The North, as it is said, accepted it reluctantly; at least they abided by it. When gentlemen destroyed it they ran after strange gods; and now when many of them propose to come back to it, they are offering a truer and more acceptable worship. But, sir, the point of the argument is not to be

evaded by any pretense that it is a mere agreement in a court of honor to do that which they have no legal and Constitutional right to do. Suppose a gentleman from Alabama comes up and says, "Sir, you, the Senator from Louisiana, have voted to prohibit me from taking my slaves into the territory north of 36° 30′; what do you mean by it? have you any right to do it? "Oh, no," the Senator says, "no right in the world; it is just a sort of legislative flourish, a compact between us and somebody else, that having done it, we will never take it back; it is the exercise of a right which theoretically we do not claim; we have just done it—we do not exactly know why in point of law, but we have done it because we hope, having done it, nobody will undo it." What will the strict constructionists on the other side say to that? What words will they put in my mouth?

I do not think the argument can be defended other than upon the ground

assumed by a justice of the peace, well known to my distinguished friend from Illinois [Mr. Douglas], old Bolling Green, in answer to a little law advice that I gave him on one occasion when the Senator and I were both very young men, and (if he will excuse me for saying so) very poor lawyers. [Laughter.] Old Bolling Green, then a magistrate, came to me and said, "Baker, I want to know if I have jurisdiction in a case of slander." I put on a very important air; looked at him steadily—looked as wise as I could, and I said to him, "Squire, you have no such authority; that is reserved to a court of general jurisdiction." "Well," said he, "think again; you have not read law very well, or very long; try it again; now, have I not jurisdiction? can I not do it?" "No," I said; "you cannot." Said he, "Try once more; now, cannot I take jurisdiction?" "No, sir," said I; "you cannot; I know it; I have read the law from Blackstone to

——; well, I have read Blackstone, and I know you cannot do it." "Now, sir," said he, "I know I can; for, by Heaven, I have done it." [Laughter.] I understand, now, that the sum total of the answer which is made to my objection as to the Constitutionality of the Missouri Compromise touching the consciences of the gentlemen who proposed to pass it without power, is just the reply of my old friend Bolling Green. They say, "Theoretically we have not the power; constitutionally we have not the power; but, by Heaven, we have done it." [Laughter.]

Well, sir, I do not assume to deal with them in a court of conscience. That is their matter. I do not pretend to discuss the propriety of making a solemn act of the Congress of the United States merely evidence in a court of honor, subject, as I think, to a demurrer to evidence at least. That is none of my business. What I am dealing with is this: if that

be the opinion of Virginia, of Louisiana, of the entire South; if they have done it by their leaders, by their speeches; if they have lived by it; if, being a compact, it is an executed compact; if under it State after State has come into this Union, is it not too late for them to deny now that we are justified if we wish to adhere to that principle? Have they a right to come and say, "You are declaring slavery to be a creature of the local law, and we will justly dissolve the Union by revolution in consequence thereof?" I think, from the conclusion, that this is neither fair, nor just, nor right, nor Constitutional. There is no escape.

The Senator says, in substance, that we attack slavery generally.

Mr. BENJAMIN. If the Senator will permit me, the charge is not that Congress does it, but that the States do it.

Mr. BAKER. Very well. I thank the gentleman; and with the directness which

belongs to his character, and the courtesy which he can never forget, I shall be happy if, only to carry down the argument, whenever he sees a proper place, he will just direct my attention to the pith and marrow of the matter as he does now. Now, be it understood, on this given day of January, in the year of our Lord 1861, the great champion of the South upon this question gets up in his place in the Senate and admits that there is no ground of complaint that the Federal Government ever has attempted to interfere with the existence of slavery in the Southern States. We will get that down upon the record, and I apprehend it will be quoted before this controversy is over, again and again.

But it is said that the Northern States, the Western States—in other words, the free States—do so interfere. Again we deny it. The fact is not so. The proof cannot be made. Why, sir, I might ask, in the first place, how can the States so

interfere? Suppose Illinois, of which I desire to speak always with affectionate solicitude, and of which I can speak with considerable knowledge, were to violate all the opinions which she has manifested in her history, and desired to interfere with the existence of slavery in Virginia, how would she go about it? I have the profoundest respect for my friend as a lawyer; but I would like to know what bill he could frame by which Illinois could interfere with the existence of slavery in Virginia.

Mr. BENJAMIN. Mr. President, I will tell the Senator, not how they can do it by bill, but how they do it in acts. A body of men penetrated into the State of Virginia by force of arms, into a peaceful village at the dead hour of night, armed with means for the purpose of causing the slaves to rise against their masters, seized upon the public property of the United States, and murdered the inhabitants. A man was found in Massa-

chusetts who, in public speeches, declared that he approved of that, and that the invasion was right; and the people of Massachusetts, by an enormous majority —the fact of that man's action placed before the people as a ground why he should be elected their Governor — elected him their Governor, indorsed invasion of a sister State, indorsed the murder of peaceful inhabitants of the State of Virginia. The people of Massachusetts, by the election of Andrews as their Governor, have indorsed the act of John Brown, have indorsed the invasion of a sister State, and the murder of its peaceful citizens at dead of night.

The people of Massachusetts, in their collective capacity, have done more. They have sent Senators upon this floor whose only business has been, for year after year, to insult the people of the South; here, in this common assembly of confederate embassadors, to cast slander and opprobrium upon them; to call

them thieves, murderers, violators; charge them as being criminals of the blackest dye; and because the men who here represent Massachusetts did that, Massachusetts has sent them back to repeat the wrong. They have done that, and nothing else, since ever I have been in the Senate.

Mr. WILSON. Mr. President —

Mr. BAKER. Oh, never mind. Mr. President, I asked the gentleman from Louisiana to point out to me and to the Senate how, if the State of Illinois were desirous to interfere with the existence of slavery in Virginia, it could be done. I leave to his cooler temper and his better taste to examine how he has answered me. Why, sir, he runs off into a disquisition upon John Brown, which would not dignify a stump. Now, I submit that that is not the point between us. I hold that his answer is an acknowledgment that a free State cannot, as a State, interfere in any conceivable way with

slavery in a slave State; and that being so, we advance another step. We agree now that Congress never have interfered, and that States never can.

But the gentleman says (and I do not reply to it now on account of what he has said at this moment, but because it is another of the counts in the indictment), that individuals in the Northern States have interfered with slavery in the Southern States. I believe that to be true; but being true, I ask, what then? Is that the chief ground of dissolution? Are you going to revolt for that? Will you plunge us into civil war for that? Is that all? Sir, let us examine it a little more closely. I pass, as unworthy of the dignity of the debate, the incidental attack which the Senator from Louisiana has chosen to make upon the people of Massachusetts, upon the Governor of that great State, and upon the distinguished Senators from that State, who, in my judgment, are an honor

on this floor to this body. It is not my purpose — they would not intrust me with their defense; nor is it needful that I should make it here or anywhere. That is not within the scope and purpose of this debate; but it is within the scope and purpose of this debate to examine how much of truth there is in the general sweeping charge which the Senator has chosen to make, and how much justification in the fact, if the fact be true.

Sir, the people of the Northern and Western States are a free people. We have there various rights guaranteed to us by our State constitutions, among the chiefest of which are liberty of thought and freedom of speech. We are an inquiring people; we are an investigating people; and we are, no doubt, very subject to the charge often made against us that we are a people of isms. Where there is perfect freedom of opinion, that must be the case, in the nature of

things. It is in the nature of the human mind itself. Laws will not restrain it. We cannot bind the human mind with fetters, nor can we limit it to modes of expression. It will think and it will act, spite of all government, and beyond all law. It follows, as a consequence, that the people will not think alike; and, of course, as there cannot be two ways perfectly right upon any one subject, the people will not always think truly and wisely.

What then? There are people in Massachusetts, and in Illinois, and in Oregon, who will not only violate the rights of the slave States but the rights of the free. There are people in the North who will not only steal niggers, but steal horses. There are people in the North who will not only try to burn down houses in the slave States, but who will be incendiary in the free States. It is the duty of the distinguished Senator from Louisiana, and myself sometimes, as

counsel, to defend such men. Nor do I know that such men or such defenses are confined to the North or the West alone. I apprehend if a grateful procession of the knaves and rascals who are indebted to the distinguished Senator from Louisiana for an escape from the penitentiary and the halter were to surround him to-day, it would be difficult for even admiring friends to get near him to congratulate him upon the success of his efforts upon this floor. [Laughter.] When, therefore, he says that individuals —not States, not Congress—but individuals in the free States, do attack in their individual capacity the honor and dignity of the slave States, and do run off their niggers, and do steal their property, and do kidnap, and do various other things contrary to their duty as good citizens, I am inclined, while I regret it, to believe the whole of it.

Springing from that, and evidenced, as I think, by the excited enumeration

which the distinguished Senator has chosen to make of the wrongs and crimes of the State of Massachusetts and her Senators,—springing from that exaggerated mode of thought and expression, as to the free States, arises the spirit of the count in the indictment against the whole of us. Now, I beg leave to say to the honorable Senator, that the desire to interfere with the rights of slavery in the slave States is not the desire of the Northern people. It is not the desire of the people of Oregon, I know; it is not the desire of the people of California, I am sure; it is not the desire of the people of Illinois, I would swear; and I may say more, that in all my association with the Republican party, I have yet to find among them, from their chiefs down to their humblest private, one man who proposes to interfere with the existence of slavery in the slave States by force, by legislation, or by Congressional action. I have known no such man in all my

short experience, nor do I believe that the Senator from Louisiana can point out any such man.

Mr. BENJAMIN. If the Senator merely desires me to answer him, I will tell him exactly what I said the other day: that the belief of the South is, and I admit I share it, that, without intending to violate the letter of the Constitution by going into States for the purpose of forcibly emancipating slaves, it is the desire of the whole Republican party to close up the Southern States with a cordon of free States, for the avowed purpose of forcing the South to emancipate them.

Mr. BAKER. Very well, sir. See how gloriously we advance, step by step. We abandon now the charge that Congress does it; we abandon now the charge that States do it; we abandon now the charge that the individual members of the Northern and Western communities, as a body, desire to interfere with slavery

contrary to law, to violate any existing right in the slave States; but we insist tenaciously and pertinaciously on our fourth count in the indictment; and it is this—

Mr. BENJAMIN. The Senator, I trust, does not desire to misrepresent what I said.

Mr. BAKER. I do not, sir.

Mr. BENJAMIN. I am confident that he does not. I understood the Senator to ask me, in relation to the Republican party, what proof I had of their desire to destroy slavery in the States. I gave it to him. I did not say that, independently of that, there were not other attacks upon Southern slavery. I just this moment referred him to the direct attack of the State of Massachusetts—the State as a State. Independently of that, by the further exemplification of the State of Massachusetts, I will refer him to the fact that her Legislature indorsed the vituperations of her Senator on this floor,

by an enormous majority, and made that a State act; and furthermore, that she passed a law in violation of the rights of Southern slaveholders, and all her eminent legal men are now urging the State to repeal the law as a gross outrage upon the Constitutional rights of the South.

Mr. BAKER. Why, Mr. President, in a State where all her eminent legal men are desirous to rectify a wrong, I do not think, if the Senator will wait a little while, there can be any very great danger. Our profession is a very powerful one; and I have never known a State in which we all agree upon a legal proposition that we could not induce her to agree to it too. That is a mere answer in passing.

I insist, however—I know it is not quite pleasant to my friend, and I regret that it is not so—that I have brought him down to a clear statement by way of abandonment of three or four of the

specifications. It is now true that the great ground of complaint has narrowed itself down to this: that, as a people, we desire to circle the slave States with a cordon of free States, and thereby destroy the institution of slavery; to treat it like the scorpion girt by fire. I take that to be an abandonment of the main counts in the indictment, unless that be considered one of them. Now, I approach that question: first, if we, a free people, really, in our hearts and consciences, believing that freedom is better for everybody than slavery, do desire the advance of free sentiments, and do endeavor to assist that advance in a Constitutional, legal way, is that, I ask him, ground of separation?

Mr. BENJAMIN. I say, yes; decidedly.

Mr. BAKER. That is well. And I say just as decidedly, and perhaps more emphatically, no! And I will proceed to tell him why. The argument is a little more discursive to-day than yester-

day, but perhaps not less instructive. Suppose that circling slavery with a cordon of free States were a cause of separation, and therefore war, with us: is it not just as much so with anybody else? It is no greater crime for a Massachusetts man or an Oregon man to circle, to girdle, and thereby kill, slavery, than for a Frenchman, or an Englishman, or a Mexican. It is as much a cause of war against France, or England, or Mexico, as against us.

Again, sir: how are you going to help it? How can we help it? Circle slavery with a cordon of free States! Why, if I read history and observe geography rightly, it is so girdled now. Which way can slavery extend itself that it does not encroach upon the soil of freedom? Has the Senator thought of that? It cannot go North, though it is trying very hard. It cannot go into Kansas, though it made a convulsive effort, mistaking a spasm for strength. It cannot go South,

because, amid the degradation and civil war and peonage of Mexico, if there be one thing under heaven they hate worse than another, it is African slavery. It cannot reach the islands of the sea, for they are under the shadow of France, that guards their shores against such infectious approach. It is circled—I will not say girdled. I recollect the figure, familiar to us all, by which he intimates that that which is girdled will die. Therefore, I do not say girdled; I say circled, inclosed, surrounded; I may say hedged in; nay, more, I may say—where is the Senator from New York [Mr. Seward]? he is a prophet, and I will not predict; but, if I were not warned by his example and his prediction as to the "irrepressible conflict," I might say that, being so hedged, circled, guarded, encompassed, it will some day—it may be infinitely far distant, so far as mortal eye can see—but it will be some day lost and absorbed in the superior

blaze of freedom. And, sir, that would be the case, just as much as it is now, if there were no Northern free States. What harm do I, in Illinois or Oregon, to the Senator from Louisiana? Where can his slavery go, that it is not now, unless it be in this disputed Territory of New Mexico? Where else? If it go anywhere else, it will go incursive, aggressive upon freedom. It will go by invading the rights of a nation that is inferior and that desires to be friendly. It will go in defiance of the wish and will and hope and tear and prayer of the whole civilized world. It will go in defiance of the hopes of civilized humanity all over the world. The Senator will not deny that. Therefore it is that it appears to me idle—and I had almost said wicked—to attempt to plunge this country into civil war, upon the pretense that we are endeavoring to circle your institution, when, if we had no such wish or desire in the world, it is circled by destiny,

by Providence, and by human opinion everywhere.

The Senator asks, "How will you collect your revenue?" There is nothing practical in the attempted idea that we cannot punish an individual, or that we cannot compel him to obey the law, because a sovereign State will undertake to succor him. There is no more sense in that than there was in the excuse made by a celebrated commander-in-chief for profane swearing. The Duke of York, as you may remember, sir, was, during the reign of George III., his father, not only commander-in-chief of the British forces, but he was titular Bishop of Osnaburgh; that is, he had a little principality in Germany which was originally related to the Church, and he was nominal bishop of that principality. At a tavern one day, while the commander-in-chief was swearing profanely, a gentleman of the Church of England felt it his duty to reprove him, and said to him, "Sir, I am astonished that a bishop

should swear in the manner that you do." "Sir," said he, "I want you to distinctly understand that I do not swear as the Bishop of Osnaburgh—I swear as the Duke of York, the commander-in-chief." "Ah, sir," said the old man, "when the Lord shall send the duke to hell, what will become of the bishop?" [Laughter.] Now, if, in consequence of an attempt to violate the revenue laws, some persons should be hurt, I do not know that it will better their condition at all that South Carolina will stand as a stake to their back. I think that is the plain common-sense answer to all that has been said on that subject.

Sir, as I leave that branch of it, indeed as I leave the subject altogether, I will simply say that I hope it will never come. Whatever moderation, whatever that great healer, Time, whatever the mediation of those allied to these people in blood, in sympathy, in interest, may effect, let that be done; but at last let

the laws be maintained and the Union be preserved. At whatever cost, by whatever Constitutional process, through whatever of darkness or danger there may be, let us proceed in the broad luminous path of duty "till danger's troubled night be passed and the star of peace returns."

As I take my leave of a subject upon which I have detained you too long, I think in my own mind whether I shall add anything in my feeble way to the hopes, the prayers, the aspirations that are going forth daily for the perpetuity of the Union of these States. I ask myself, shall I add anything to that volume of invocation which is everywhere rising up to high Heaven, "Spare us from the madness of disunion and civil war!" Sir, standing in this chamber and speaking upon this subject, I cannot forget that I am standing in a place once occupied by one far, far mightier than I, the lachet of whose shoes I am not worthy to unloose. It was upon this subject of

secession, of disunion, of discord, of civil war, that Webster uttered those immortal sentiments, clothed in immortal words, married to the noblest expressions that ever fell from human lips, which alone would have made him memorable and remembered forever. Sir, I cannot improve upon those expressions. They were uttered nearly thirty years ago, in the face of what was imagined to be a great danger, then happily dissipated. They were uttered in the fullness of his genius, from the fullness of his heart. They have found echo since then in millions of homes and in foreign lands. They have been a text-book in schools. They have been an inspiration to public hope and to public liberty. As I close, I repeat them; I adopt them. If in their presence I were to attempt to give utterance to any words of my own, I should feel that I ought to say,

> "And shall the lyre so long divine
> Degenerate into hands like mine?"

Sir, I adopt the closing passages of that immortal speech; they are my sentiments; they are the sentiments of every man upon this side of the chamber; I would fain believe they are the sentiments of every man upon this floor; I would fain believe that they are an inspiration, and will become a power throughout the length and breadth of this broad confederacy; that again the aspirations and hopes and prayers for the Union may rise like a perpetual hymn of hope and praise. But, sir, however this may be, these thoughts are mine; these prayers are mine; and as, reverently and fondly, I utter them, I leave the discussion:—

"When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last

feeble and lingering glance rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as 'What is all this worth?' nor those other words of delusion and folly, 'Liberty first, and Union afterwards;' but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart, 'Liberty *and* Union, now and forever, one and inseparable!'"

The Freedom of the Press.

The following memorable passage occurs in that part of the Reply to Benjamin which has been omitted:—

Sir, the liberty of the press is the highest safeguard of all free government. Ours could not exist without it. It is with us, nay, with all men, like a great exulting and abounding river. It is fed by the dews of heaven, which distill their sweetest drops to form it. It gushes from the rill, as it breaks from the deep caverns of the earth It is fed by a thousand affluents, that dash from the mountain top to separate again into a thousand bounteous and irrigating rills around. On its broad bosom it bears a thousand barks. There Genius spreads its purpling sail. There Poetry dips its silver oar. There Art, Invention, Discovery, Science, Morality, Religion, may safely and securely float. It wanders through every land. It is a genial, cordial source of thought and inspiration, wherever it touches, whatever it surrounds. Sir, upon its borders, there grows every flower of grace and every fruit of truth. I am not here to deny that that river sometimes oversteps its bounds. I am not here to deny that that stream sometimes becomes a dangerous torrent, and destroys towns and cities upon its banks; but I am here to say that, without it, civilization, humanity, government, all that makes society itself, would disappear, and the world would return to its ancient barbarism. Sir, if that were to be possible, or so thought for a moment, the fine conception of the great poet would be realized. If that were to be possible, though but for a moment, civilization itself would roll the wheels of its car backward for two thousand years. Sir, if that were so, it would be true that,

> "As one by one in dread Medea's train,
> Star after star fades off th' ethereal plain,
> Thus at her felt approach and secret might,
> Art after art goes out, and all is night.
> Philosophy, that leaned on Heaven before,
> Sinks to her second cause, and is no more.
> Religion, blushing, veils her sacred fires,
> And unawares morality expires."

AT THE GREAT MASS-MEETING, NEW YORK CITY.

THE last speech was, indeed, spoken "in the presence of great events." South Carolina and other Southern States had already seceded. Two months after this speech the Administration of Abraham Lincoln was inaugurated. Benjamin had left the Senate with the secession of Louisiana. That body, held in session to act on Presidential appointments, adjourned on March 28th. Within a fortnight, Fort Sumter was bombarded and taken by the Confederates. Virginia seceded a few days later. Upon the fall of Sumter the President called for seventy-five thousand men to defend the Capital. His proclamation recited that the laws were opposed and their execution obstructed by "combinations" in South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, and called for recruits "to suppress said combination, and to cause the laws to be duly executed"; and at the same time summoned Congress to meet in extra session of the 4th of July. A second call for troops was made on May 4th. The war spirit being thoroughly aroused, Union mass-meetings were held throughout the Northern and Western States, the most notable, in point of numbers and enthusiasm, being in Union Square, New York City, on Saturday, April 19, 1861. From different stands twenty of the most prominent men of the country addressed the multitude, among them being Daniel S. Dickinson, James T. Brady, John A. Dix, Henry J. Raymond, and the Oregon Senator. This was the largest mass-meeting ever held in this country. It was generally estimated that one hundred thousand people were in the throng. Dickinson, who had been United States Senator from New York, and was a fine speaker, addressing another meeting on a later occasion in Brooklyn, after the death of Baker, thus alluded to our orator: "He was swifter than an eagle; he was stronger than a lion, and the very soul of manly daring. He spoke

by my side at the great Union Square meeting in April, and his words of fiery and patriotic eloquence yet ring upon my ear. And has that noble heart ceased to throb—that pulse to play? Has that beaming eye closed in death? Has that tongue so eloquent been silenced forever?"

Baker's speech follows. His happy reference to his leadership of New York troops on the battle-field in Mexico made sure of the affectionate sympathy of the vast host before him.

Governor Stanly, on the occasion spoken of on page 65, repeated the stirring words with which this speech concluded, and declared Baker's effort to be "one of great eloquence and power."

It was there—in the great metropolis, before the unreckoned multitude, in the face of an unexampled crisis, and in the fullness of his fame—our friend made his last popular appeal.

AT THE GREAT MASS-MEETING, NEW YORK CITY.

The majesty of the people is here to-day to sustain the majesty of the Constitution [cheers], and I come a wanderer from the far Pacific to record my oath along with yours of the great Empire State. [Applause, and three cheers for Baker.] The hour for conciliation is passed; the gathering for battle is at hand, and the country requires that every man shall do his duty. [Loud cheers.] Fellow-citizens, what is that country? Is it the soil on which we tread? Is it the gathering of familiar faces? Is it our luxury, and pomp, and pride? Nay, more than these, is it power, and might, and majesty alone? No; our country is more, far more, than all these. The country which demands our love, our courage, our devotion, our heart's

blood, is more than all these. [Loud applause.] Our country is the history of our fathers, the tradition of our mothers. Our country is past renown; present pride and power; future hope and dignity; greatness, glory, truth, Constitutional guarantees — above all, freedom forever. [Enthusiastic cheers.] These are the watchwords under which we fight, and we will shout them out till the stars appear in the sky in the stormiest hour of battle. [Cheers.] I have said that the hour of conciliation is past. It may return, but not to-morrow or next week. It will return when that tattered flag [pointing to the flag of Fort Sumter] is avenged. [Prolonged and enthusiastic cheers.] It will return when rebellious Confederates are taught that the North, though peaceable, is not cowardly; though forbearing, not fearful. [Cheers.] That hour of conciliation will come back when again the ensign of the Republic will stream over every rebellious fort

of every Confederate State [renewed cheers], to be, as of old, the emblem of the pride, and power, and dignity, and majesty, and peace of the nation. [Applause.] Young men of New York! you are told that this is not to be a war of aggression. In one sense, that is true; in another, not. We have committed aggression upon no man. In all the broad land, in their rebel nest, in their traitor's camp, no truthful man can rise and say that he has ever been disturbed, though it be but for a single moment, in life, liberty, estate, character, or honor. [Cheers, and cries of "That 's so!"] The day they began this unnatural, false, wicked, rebellious warfare, their lives were more secure, their property more secure by us (not by themselves, but by us), more strongly guarded than the lives and property of any other people from the beginning of the world. [Applause.] We have committed no oppression, broken no compact, exercised no unholy

power, but have been loyal, moderate, Constitutional, and just. We are a majority, and will govern our own Union, within our own Constitution, in our own way. [Cries of "Bravo!" and applause.] We are all Democrats. We are all Republicans. We acknowledge the sovereignty within the rule of the Constitution; and under that Constitution, and beneath that flag, let traitors beware! [Loud cheers.]

In this sense, then, young men of New York, we are not for a war of aggression; but in another sense, speaking for myself as a man who has been a soldier, and as a man who is a Senator, I say I am for a war of aggression. I propose that we do now as we did in Mexico — conquer peace. [Loud and enthusiastic applause.] I propose that we go to Washington, and beyond. [Loud cheers.] I do not design to remain silent, supine, inactive — nay, fearful — until they gather their battalions and advance upon our borders

or into our midst. I would meet them upon the threshold, and there, in the very hold of their power, in the very atmosphere of their treason, I would dictate the terms of peace. [Loud cheers.] It may take thirty millions of dollars, it may take three hundred millions — what then? We have it. [Cries of "Good!" and applause.] Loyally, nobly, grandly do the merchants of New York respond to the appeals of the Government. It may cost us seven thousand men; it may cost us seventy-five thousand; it may cost us seven hundred and fifty thousand — what then? We have them. [Renewed cheering.] The blood of every loyal man is dear to me. My sons, my kinsmen, the men who have grown up beneath my eye and beneath my care, they are all dear to me; but if the country's destiny, glory, tradition, greatness, freedom, Constitutional government demand it, let them all go. [Enthusiastic cheers.]

I am not now to speak timorous words of peace, but to kindle the spirit of determined war; I speak in the Empire State, amid scenes of past suffering and past glory. The defenses of the Hudson above me, the battle-field of Long Island before me, and the statue of Washington in my very face [loud, enthusiastic cheers], the battered and unconquered flag of Sumter is waving at my side, which I can imagine to be trembling again with the excitement of battle. [Great enthusiasm.] And as I speak, I say my mission here to-day is to kindle the heart of New York for war—short, sudden, bold, determined, forward war. [Great applause.]

The Seventh Regiment has gone. [Three cheers for the Seventh Regiment.] Let seventy and seven more follow. [Applause.] Of old, said a great historian, beneath the banner of the Cross, Europe precipitated itself upon Asia. Beneath the banner of the Constitution let the men of the Union precipitate

themselves upon the Confederate States. [Tremendous applause.] A few more words, and I have done. [Cries of "Go on; we 'll hear you all night."]

Let no man underrate the dangers of this conflict. Civil war, for the best of reasons upon the one side, and the worst upon the other, is always dangerous to liberty, always fearful, always bloody. But, fellow-citizens, there are yet worse things than fear, than doubt and dread, and peril and bloodshed. Dishonor is worse. [Prolonged cheers.] Anarchy is worse. States forever commingling and forever severing is worse. [Renewed cheers.] Secessionists are worse. To have star after star blotted out [cries of "Never! never!"]—to have stripe after stripe obscured [cries of "No! no!"]—to have glory after glory dimmed, to have our women weep and our men blush for shame through generations to come; that and these are infinitely worse than blood. [Tremendous cheers.]

People of New York! on the eve of battle, allow me to speak as a soldier. Few of you know, as my career has been distant and obscure, but I may mention it here to-day with a generous pride, that it was once my fortune to lead your gallant New York regiment in the very shock of battle. [Applause.] It was upon the bloody heights of Cerro Gordo. I know well what New York can do when her blood is up. [Loud applause. "Three cheers for Baker!"] Again, once more, when we march, let us not march for revenge—as yet we have nothing to revenge. It is not much, that where that tattered flag recently floated, guarded by seventy men against ten thousand, it is not much that starvation effected what an enemy could not compel. [Prolonged applause.]

We have yet some punishment to inflict. The President himself, a hero without knowing it,—and I speak from knowledge, having known him from boy-

hood,—the President says: "There are wrongs to be redressed, already long enough endured;" and we march to battle and to victory because we do not choose to endure this wrong any longer. [Cheers.] They are wrongs not merely against us, not against the President, not against me, but against our sons and against our grandsons that surround us. They are wrongs against our ensign [cries of "That's so!" and applause]; they are wrongs against our Union; they are wrongs against our Constitution; they are wrongs against human hope and human freedom.

While I speak, following in the wake of men so eloquent, the object of your meeting is accomplished. Upon the wings of the lightning it goes out to the world that the very heart of a great city—that New York, by one hundred thousand of her people, declares that she will sustain the Government to the last dollar in her treasury—to the last drop of her blood.

The national banners leaning from ten thousand windows to-day proclaim your reverence and affection for the Union. You will gather in battalions, and, as you gather, every omen of ultimate peace will surround you. The ministers of religion, the priests of literature, the historians of the past, the illustrators of the present, capital, science, art, invention, discoveries, the works of genius, all these will attend us, and we will conquer.

And if, from the far Pacific, a voice feebler than the feeblest murmur upon its shore may be heard to give you courage and hope in the contest, that voice is yours to-day. And if a man whose hair is gray, who is well-nigh worn out in the battle and toil of life, may pledge himself on such an occasion, and in such an audience, let me say as my last word that when, amid sheeted fire and flame, I saw and led the hosts of New York as they charged in contest on a foreign soil for the honor of the

flag; so again, if Providence shall will it, this feeble hand shall draw a sword, never yet dishonored, not to fight for honor on a foreign field, but for country, for home, for law, for government, for Constitution, for right, for freedom, for humanity—and in the hope that the banner of my country may advance, and wheresoever that banner waves, there glory may pursue and freedom be established. [Loud and prolonged applause.]

THE REPLY TO BRECKIN RIDGE

WHEN he spoke the warlike words last in place, Baker had about made up his mind again to "draw a sword never yet dishonored," and on June 28th, one week before Congress was to meet in special session, he was mustered into service as colonel of the First California Infantry (designation changed in November, 1861, to Seventy-first Pennsylvania Infantry Volunteers,) to serve three years. He was commissioned brigadier-general of volunteers, August 6, 1861, to rank from May 17th. This commission, although he was confirmed by the Senate, he declined on August 31st. On September 21st, just a month before his fall, he was appointed major-general of volunteers. This he also declined, because acceptance would necessitate his resignation as Senator. It is not on history's page, but nevertheless true, that when General Winfield Scott had to give up the general command of the army, in consequence of old age, President Lincoln tendered the succession to Colonel Baker. Lincoln and Baker were old comrades in the campaigns of the Whig party. They were together in the Black Hawk War, and Baker's action in the war with Mexico was fresh in the mind and heart of the President.

While Congress was in special session, the Federal disaster at Bull Run occurred, on Sunday, July 21, 1861. Baker was stationed at Fortress Monroe, but was ordered with his command to Washington.

On August 2, 1861, the Senate having under consideration a bill to suppress insurrection and sedition, introduced on July 16th by the Hon. Lyman Trumbull, of Illinois, Senator Breckinridge, of Kentucky, late Vice-President of the United States, made a speech against the proposed measure. Baker, in the double role of statesman and soldier, heard this speech, sitting in his seat as Sena-

tor and clothed in the uniform of a colonel of the army, and at its conclusion he arose to reply. Seldom, if ever before, in the history of Congress did a speaker so challenge attention. Only once had there been a like scene, and then, too, it was the same actor. In the war with Mexico, when General Shields was badly wounded at Cerro Gordo, Baker succeeded to the command of the brigade, and led it through all the subsequent battles of the war. At one time he availed himself of a furlough, visited Washington, resumed his seat in the House as a member from Illinois, made a brilliant speech in favor of the prosecution of the war, then hastened back to his regiment at Vera Cruz.

He was now to make his last pronunciation. He was going into actual battle again to redeem his pledges. One of these he had made at the recent New York mass-meeting, and another pledge he had given to Glory in his youth — that he would love her forever! In his life, indeed, were some sharp contrasts, as before observed — this son of Mars, this hero of three wars, was reared by Quaker parents! Baker had long borne the name of "The Old Gray Eagle." It was a happy appellative. Behold his white locks, his magnificent eyes, his lofty flights! As he took the floor now, in his uniform, to reply to Breckinridge, perhaps a nobler or more picturesque figure never stood in the presence of men. His altitude was five feet ten and a half inches, his weight one hundred and ninety pounds. Harmonious in person, and free in gesture, he spoke, as usual, with animation, yet with undisturbed dignity. The picture in this volume represents him as he then appeared. It is from a photo by W. L. Germon, of Philadelphia, taken between the dates of this last speech and Baker's death. It gives the eagle look and the flash of the eye.

Reader, you say, He was a fine-looking man. Yes, he was a good man to look at, as well as listen to, and he was universally beloved, being as good-hearted as he was good-looking. You see his nature in his face.

The apparition of the Tarpeian Rock, brought into

this speech at the suggestion of Senator Fessenden, of Maine, was regarded as felicitous even by the orator's political opponents. But Breckinridge at first believed that it was Sumner, of Massachusetts, who whispered the word to Baker, and that the act was more malicious than clever.

THE REPLY TO BRECKINRIDGE.*

MR. PRESIDENT, it has not been my fortune to participate in, at any length, indeed, nor to hear very much of the discussion which has been going on — more, I think, in the hands of the Senator from Kentucky than anybody else — upon all the propositions connected with this war; and, as I really feel as sincerely as he can an earnest desire to preserve the Constitution of the United States for everybody, South as well as North, I have listened for some little time past to what he has said, with an earnest desire to apprehend the point of his objection to this particular bill. And now — waiv-

* In this debate Senator Breckinridge referred to Baker as "the Senator from California." Baker, correcting, said "Oregon." Breckinridge responded: "The Senator seems to have charge of the whole Pacific Coast, though I do not mean to intimate that the Senators from California are not entirely able and willing to take care of their own State. They are. The Senator from Oregon, then."

ing what, I think, is the elegant but loose declamation in which he chooses to indulge—I would propose, with my habitual respect for him, (for nobody is more courteous and more gentlemanly,) to ask him if he will be kind enough to tell me what single particular provision there is in this bill which is in violation of the Constitution of the United States, which I have sworn to support—one distinct, single proposition in the bill.

Mr. BRECKINRIDGE. I will state, in general terms, that every one of them is, in my opinion, flagrantly so, unless it may be the last. I will send the Senator the bill, and he may comment on the sections.

Mr. BAKER. Pick out that one which, in your judgment, is most clearly so.

Mr. BRECKINRIDGE. They are all, in my opinion, so equally atrocious, that I dislike to discriminate. I will send the Senator the bill, and I tell him that every section, except the last, in my

opinion, violates the Constitution of the United States; and of that last section I express no opinion.

Mr. BAKER. I had hoped that that respectful suggestion to the Senator would enable him to point me to one section, in his judgment, most clearly so, for they are not all alike—they are not equally atrocious.

Mr. BRECKINRIDGE. Very nearly so. There are ten of them. The Senator can select which he pleases.

Mr. BAKER. Let me try, then, if I must generalize as the Senator does, to see if I can get the scope and meaning of this bill. It is a bill providing that the President of the United States may declare, by proclamation, in a certain given state of facts, certain territory, within the United States, to be in a condition of insurrection and war, which proclamation shall be extensively published within the district to which it relates. That is the first proposition.

I ask him if that is unconstitutional. That is a plain question. Is it unconstitutional to give power to the President to declare a portion of the territory of the United States to be in a state of insurrection or rebellion? He will not dare to say it is.

Mr. BRECKINRIDGE. Mr. President, the Senator from Oregon is a very adroit debater; and he discovers, of course, the great advantage he would have if I were to allow him, occupying the floor, to ask me a series of questions, and then make his own criticisms on my responses. When he has closed his speech, if I deem it necessary, I may make some reply. At present, however, I will answer that question. The State of Illinois, I believe, is a military district. The State of Kentucky is a military district. In my judgment, the President has no authority, and Congress has no right to confer it upon him, to declare a State to be in a condition of insurrection or rebellion.

Mr. BAKER. In the first place, the bill does not say a word about States. That is the first answer.

Mr. BRECKINRIDGE. Does not the Senator know, in fact, that those States compose military districts? It might as well have said "States" as to describe what is a State.

Mr. BAKER. I do; and that is the reason why I suggest to the honorable Senator that this criticism about States does not mean anything at all. That is the very point. The objection certainly ought not to be that he can declare a part of a State in insurrection, and not the whole of it. In point of fact, the Constitution of the United States, and the Congress of the United States acting upon it, are not treating of States but of the territory comprising the United States; and I submit once more to his better judgment that it cannot be unconstitutional to allow the President to declare a county or a part of a county, or

a town or a part of a town, or part of a State, or the whole of a State, or two States, or five States, in a condition of insurrection, if, in his judgment, that be the fact. That is not wrong.

In the next place, it provides that that being so, the military commander in that district may make and publish such police rules and regulations as he may deem necessary to suppress the rebellion and restore order and preserve the lives and property of citizens. I submit to him that if the President has power—we ought to have power to suppress insurrection and rebellion—is there any better way to do it, or is there any other way? The gentleman says, Do it by the civil power. Look at the fact. The civil power is utterly overwhelmed; the courts are closed; the judges banished. Is the President not to execute the law? Is he to do it in person, or by his military commanders? Are they to do it with regulation, or without it? That is the only question.

The honorable Senator says there is a state of war. The Senator from Vermont agrees with him; or rather, he agrees with the Senator from Vermont in that. What then? There is a state of public war; none the less war because it is urged from the other side; not the less war because it is unjust; not the less war because it is a war of insurrection and rebellion. It is still war; and I am willing to say it is public war—public, as contradistinguished from private war. What then? Shall we carry that war on? Is it his duty as a Senator to carry it on? If so, how? If it is a public war, how? By armies, under command; by military organization and authority, advancing to suppress insurrection and rebellion. Is that wrong? Is that unconstitutional? Are we not bound to do with whoever levies war against us as with a foreigner? There is no distinction as to the mode of carrying on war. We carry on war against an advan-

cing army just the same, whether it be from Russia or from South Carolina. Will the honorable Senator tell me if it is our duty to stay here, within fifteen miles of the enemy preparing to march upon us, and talk about nice questions of Constitutional construction, as to whether it is war or merely insurrection? No, sir. It is our duty to advance, too, if we can; to suppress insurrection; to put down rebellion; to dissipate the rising; to scatter the enemy; and when we have done so, to preserve, in the terms of the bill, the liberty, lives, and property of the people of the country, by just and fair police regulations. Did not we do this when we took Monterey, in Mexico? Did we not do it when we took the Mexican capital? Is it not a part—a necessary, an indispensable part—of war itself, that there shall be military regulations over the country that is conquered and held? Is that unconstitutional?

I think it was a mere play of words

that the Senator indulged in, when he attempted to answer the Senator from New York. I did not understand the Senator from New York to mean anything substantially but this: that the Constitution deals generally with a state of peace, and that, when war is declared, it leaves the condition of public affairs to be determined by the law of war in the country where the war exists. It is true that the Constitution does not adopt the laws of war as a part of the instrument itself during the continuance of war. The Constitution does not provide that spies shall be hung. Is it unconstitutional to hang a spy? There is no provision for it in terms in the Constitution; but nobody denies the right, the power, the justice. Why? Because it is a part of the law of war. The Constitution does not provide for the exchange of prisoners; yet it may be done under the law of war. Indeed, the Constitution does not provide that a prisoner may be taken

at all, yet his captivity is perfectly just and Constitutional. It seems to me that the Senator does not, will not, take that view of the subject.

Again, sir, when a military commander advances (as I trust, if there are no more unexpected great reverses, he will advance) through Virginia, and occupies the country, there, perhaps, as here, the civil law may be silent; there, perhaps, the civil officers may flee, as ours have been compelled to flee. What then? If the civil law is silent, who shall control and regulate the conquered district—who but the military commander? As the Senator from Illinois has well said, shall it be done by regulation or without regulation? Shall the general, or the colonel, or the captain, be supreme, or shall he be regulated and ordered by the President of the United States? That is the sole question. The Senator has put it well.

I agree that we ought to do all we can

to limit, to fetter, to restrain, the use of military power. Bayonets are, at best, illogical arguments. I am not willing, except as a case of sheerest necessity, ever to permit a military commander to exercise authority over life, liberty, and property. But, sir, it is part of the law of war; you cannot carry in the rear of your army your courts; you cannot organize juries; you cannot have trials according to the forms and ceremonial of the common law amid the clangor of arms; and somebody must enforce police regulations in a conquered or occupied district. I ask the Senator from Kentucky again, respectfully, is that Constitutional? Or if in the nature of war it must exist, even if there be no law passed by us to allow it, is it unconstitutional to regulate it? That is the question to which I do not think he will make a clear and distinct reply.

Now, sir, I have shown him two sections of the bill (which I do not think he

will repeat earnestly) are unconstitutional. I do not think that he will seriously deny that it is perfectly Constitutional to limit, to regulate, to control—to confer and restrain at the same time—authority in the hands of military commanders. I think it is wise and judicious to regulate it by virtue of powers to be placed in the hands of the President by law.

Now, a few words, and a few only, as to the Senator's predictions. The Senator stands up here in a manly way in opposition to what he sees is the overwhelming sentiment of the Senate, and utters reproof, malediction, and prediction combined. Well, sir, it is not every prediction that is prophecy. It is the easiest thing in the world to do, except to be mistaken, when we have predicted. I confess, Mr. President, that I would not have predicted three weeks ago the disasters which have overtaken our arms; and I do not think, if I were to predict now, that six months hence the Senator

will indulge in the same tone of prediction which is his favorite key now. I would ask him: What would you have us do now—a Confederate army within twenty miles of us, advancing, or threatening to advance, to overwhelm your Government, to shake the pillars of the Union; to bring it around your head, if you stay here, in ruins? Are we to stop, and talk about an uprising sentiment in the North against the war? Are we to predict evil, and retire from what we predict? Is it not the manly part to go on as we have begun, to raise money, and levy armies, to organize them, to prepare to advance; where we do advance, to regulate that advance by all the laws and rules that civilization and humanity will allow?

Can we do anything more? It is idle to talk to us about stopping; we will never stop. Will the Senator yield to rebellion? Will he shrink from armed insurrection? Will his State justify it?

Will its better public opinion allow it? Shall we send a flag of truce? What would he have? Or would he conduct this war so feebly that the world would smile in derision? These speeches of his, sown broadcast over the land, what clear, distinct meaning have they? Are they not intended for disorganization in our very midst? Are they not designed to dull our weapons, to destroy our zeal, to animate our foes? Sir, are they not words of brilliant, polished treason, even in the very capitol of the Republic? [Applause in the galleries, promptly checked by the presiding officer.]

What would have been thought, if, in another capitol, in another republic, in a yet more martial age, a Senator as grave, not more eloquent or dignified, than the Senator from Kentucky, yet with the Roman purple flowing over his shoulders, had risen in his place, surrounded by all the illustrations of Roman glory, and declared that advancing Han-

nibal was just, and that Carthage ought to be dealt with in terms of peace? What would have been thought, if, after the battle of Cannæ, a Senator there had risen in his place and denounced every levy of the Roman people, every expenditure of its treasure, and every appeal to the old recollections and the old glories?

[Senator William Pitt Fessenden, of Maine, here whispered to the speaker: "He would have been hurled from the Tarpeian Rock."

Sir, a Senator, himself learned far more than myself in such lore, tells me, in a voice that I am glad is audible, that he would have been hurled from the Tarpeian Rock. It is a grand commentary upon the American Constitution that we permit the words of the Senator from Kentucky to be uttered here. I ask the Senator to recollect, too, what, save to send aid and comfort to the enemy, do these predictions of his amount to?

Every word thus uttered falls as a note of inspiration upon every Confederate ear. Every sound thus uttered is a word (and, falling from his lips, a mighty word,) of kindling and triumph to a foe that determines to advance upon us. For me, I have no such word to utter as a Senator. For me, amid temporary defeat, disaster, disgrace, it seems that my duty calls me to utter another word, and that word is bold, sudden, forward, determined war, according to the laws of war, by armies, by military commanders, clothed with full power, advancing with all the past glories of the Republic urging them on to conquest.

I do not stop to consider whether it is subjugation or not. It is compulsory obedience, not to my will, not to yours, sir; not to the will of any one man, not to the will of any one State; but compulsory obedience to the Constitution of the whole country. The Senator chose the other day again and again to

animadvert on a single expression in a little speech which I delivered before the Senate, in which I took occasion to say that if the people of the rebellious States would not govern themselves as States, they ought to be governed as Territories. The Senator knew full well then—for I explained twice,—he knows full well now—that on this side of the chamber, nay, in this whole North and West, in all the loyal States, in all their breadth, there is not a man among us all who dreams of causing any man in the South to submit to any rule, either as to life, liberty, or property, that we ourselves do not willingly agree to yield to. Did he ever think of that? Subjugation for what? When we subjugate South Carolina, what shall we do? We shall compel her obedience to the Constitution of the United States; that is all. Why play upon words? We do not mean, we have never said, any more. If it be slavery that men should obey the Constitution

that their fathers fought for, let it be so. If it be freedom, it is freedom equally for them and for us. We propose to subjugate rebellion into loyalty; we propose to subjugate insurrection into peace; we propose to subjugate Confederate anarchy into Constitutional Union liberty. The Senator well knows that we propose no more. I ask him, I appeal to his better judgment now, what does he imagine we intend to do, if, fortunately, we conquer Tennessee or South Carolina, — call it "conquer," if you will. They will have their courts still; they will have their ballot-boxes still; they will have their elections still; they will have taxation and representation still; they will have the writ of *habeas corpus* still; they will have every privilege they ever had. When the Confederate armies are scattered; when their leaders are banished from power; when the people return to a late repentant sense of the wrong they have done to a Government

they never felt but in benignancy and blessing, then the Constitution made for all will be felt by all, like the descending rains of heaven which bless all alike. Is that subjugation? To restore what was, as it was, for the benefit of the whole country and of the whole human race, is all we desire, and all we can have.

Gentlemen talk about the Northeast. I appeal to Senators from the Northeast. Is there a man in all your States who advances upon the South with any other idea than to restore the Constitution of the United States in its spirit and its unity? I never heard that one. I believe no man indulges in any dream of inflicting there any wrong to public liberty; and I respectfully tell the Senator from Kentucky that he persistently, earnestly—I will not say willfully—misrepresents the sentiment of the North and West when he attempts to teach these doctrines to the Confederates of the South.

While I am predicting, I will tell you another thing. This threat about money and men amounts to nothing. Some of the States which have been named in that connection I know well. I am sure that no temporary defeat, no momentary disaster, will swerve Illinois from her allegiance to the Union. It is not with us a question of money or of blood; it is a question involving considerations higher than these. When the Senator from Kentucky speaks of the Pacific, I see another distinguished friend from Illinois [Senator James A. McDougall], now worthily representing the State of California, who will bear me witness that I know that State, too, well. I take the liberty—I know that I but utter his sentiments—to say that that State will be true to the Union to the last of her blood and treasure. There may be some disaffected men there, some few who would "rather rule in hell than serve in heaven." There are such men everywhere. There are a

few men there, who have left the South for the good of the South; who are perverse, violent, destructive, revolutionary, and opposed to social order. A few, but a very few, thus formed, and thus nurtured, in California and in Oregon, both persistently endeavor to create and maintain mischief; but the great portion of our population are loyal to the core, and in every chord of their hearts. They are offering to add to the legions of the country, every day, by the hundred and the thousand. They are willing to come thousands of miles, with their arms on their shoulders, at their own expense, to share, with the best offering of their hearts' blood, in the great struggle of Constitutional liberty. I tell the Senator that his predictions, sometimes for the South, sometimes for the Middle States, sometimes for the Northeast, and then wandering away in airy visions out to the far Pacific, are false in sentiment, false in fact, and false in loyalty. The Senator

from Kentucky is mistaken in them all. Five hundred million dollars! What then? Great Britain gave more than two thousand millions in the great battle for Constitutional liberty which she led at one time almost single-handed against the world.

Five hundred thousand men? What then? They are the children of the country, and we will give them all up before we will abate one word of our just demand, or retreat one inch from the dividing line between right and wrong.

When we give them, we know their value. Knowing their value, we give them with the more pride and the more joy. Sir, how can we retreat? Sir, how can we make peace? Who shall treat? What commissioners? Who would go? Upon what terms? Where is to be your boundary line? Where the end of the principles we shall have to give up? What will become of Constitutional Government? What will become of public

liberty? What of past glories? What of future hopes? Shall we sink into the insignificance of the grave, a degraded, defeated, emasculated people, frightened by the results of one battle, and scared at the visions raised by the imagination of the Senator from Kentucky on this floor? No, sir; a thousand times no, sir! We will rally,—if, indeed, our words be necessary,—we will rally the people, the loyal people, of the whole country. They will pour forth their treasure, their men, without stint, without measure. The most peaceable man in this body may stamp his foot upon this Senate chamber floor as of old a warrior and Senator did, and from that single tramp there will spring forth armed legions. Shall one battle determine the fate of empire? Or a dozen? The loss of a thousand men? Or twenty thousand? Or one hundred million dollars? Or five hundred million dollars? In a year's peace, in ten years,

at most, of peaceful progress, we can restore them all. There will be some graves reeking with blood, watered by the tears of affection; there will be some loss of luxury, some privation, somewhat more need for labor to procure the necessaries of life. When that is said, all is said. If we have the country, the whole country, the Union, the Constitution, free government—with these there will return all the blessings of well-ordered civilization; the path of the country will be a career of greatness and glory, such as, in the olden time, our fathers saw in the dim visions of years yet to come, and such as would have been ours now, to-day, but for the treason for which the Senator too often seeks to apologize.

THE DEATH OF BAKER

THE DEATH OF BAKER.

The reply to Breckinridge was Baker's last speech. He went back at once to the field of war, and in the uniform of a colonel, but commanding a brigade, he fell at the battle of Edward's Ferry, or Ball's Bluff, on the Virginia side of the Potomac, on the 21st of October, 1861.*

Any person, having known Baker well, upon being told simply that he had been killed in battle, could catch in fancy the echoes of the conflict—the beat of drums, the blare of bugles, the clash of sabers, all the roar of onset and the shock of recoil. It was his proud claim that he "could lead men anywhere"; and with his ardent nature, and the fields of glory behind him, it seems he should have

* That love of country which has inspired the strongest minds sways us most powerfully when it combines with the tastes of the mind, the affections of the heart, and the habitudes of the imagination.— *Madame de Staël.*

died, if perish he must, in actual charge, or hand-to-hand struggle, yielding his breath on severe terms; that it should not have been a sudden extinguishment, but that he should have continued to fight, even after receiving mortal hurt; unhorsed, but defiant still, beating down his assailants, until nature could do no more. The catastrophe recalls into view — over a wide stretch of time — another strong and martial figure (although fictitious):—

The war that for a space did fail,
Now, trebly thundering, swelled the gale,
  And "Stanley!" was the cry;—
A light on Marmion's visage spread,
  And fired his glazing eye.
With dying hand above his head,
He shook the fragment of his blade,
  And shouted, "Victory! —
Charge, Chester, charge! on, Stanley, on!"
Were the last words of Marmion.

A like stirring scene might have marked Baker's end at a much earlier period of

human warfare, when, with weapons now antiquated, individual nobility was more in view, and, by consequence, more in peril. Or, struck down too soon, our warrior might easily be pictured as in the thick of the very mêlée his own fall at once brought about.

A superior force had accumulated in his front; the Potomac, which he had just crossed, ran close in the rear. There is a long and thrilling narrative by Geo. Wilkes, in which he dwells on Baker's fine bearing when he found that he was taken in the toils. He caught sight of a white-haired officer riding near the enemy's front, and called for a pistol, exclaiming "There is Gen. Johnston; fire, boys, fire!" As he reached forward to receive the weapon, a very tall, red-haired man emerged suddenly from the smoke, and, walking quickly up to within five feet of Baker, presented a self-cocking revolver, and, rapidly as he could crook his finger, delivered all the bullets

it contained into the hero's body. At the very same moment a musket-ball sped through his skull, and a terrific whirling slug from a Mississippi yager tore away the muscle of the right arm and opened a large hole into his side. "All these death-dealing shots seemed to strike at once, and the noble leader and orator, matchless of the earth, fell mute, to speak no more. The tragedy had paralyzed all beholders for the moment; but Captain Beirel, recovering his self-possession first, rushed at the slayer as he bent to seize the General's sword, took him by the throat, and, placing his pistol at his temple, blew out his brains in a red fume. Beirel had been followed in his onslaught by several members of his company, and numbers of the enemy had pressed forward to protect their red-haired comrade as they saw the avenger rush toward him. A savage hand-to-hand fight ensued over the General's corse. Sword-thrust, bay-

onet-stab, and pistol-shot intermingled quickly in that ferocious episode, and the body of the dead chieftain, though trampled in the mêlée, lay smiling in its new-found quiet, as if approving of the scene."

Smiling in death! To the eye of fancy the bright form of GLORY was hovering over the tumult. She had always listened to his pledges and applauded his passion, and now she accepted his sacrifice. She had kindled his visage full often—at Cerro Gordo, at that transcendent scene in the American Theater, all along his shining path. She now poured her illumination into his fine face, before it could take on the inflexible majesty of the last sleep.

The body was recovered and conveyed to the river. "Then," says Wilkes, "a sense of the great loss brought the tears coursing down many a smoke-smeared cheek."

Baker belonged to a healthy, long-

lived race; and he was, indeed, cut off in his prime. His parents were members of the Society of Friends, and their settlement at Philadelphia, on removing from England, was influenced by the fact that a strong community of that sect existed in that city. The father, Edward Baker, introduced there the Lancasterian System of Schools.* The mother's maiden name was Lucy Dickinson; she was a sister of Thomas Dickinson, a high officer in the British navy. She was an intellectual woman, and a writer of verse. She saw the whole career of her son, surviving him and attaining a great age. Baker wrote her the first letter bearing his frank as United States Senator. She was then past eighty, with mental powers

*Joseph Lancaster, educator, born in London, England, 1788, came to America in 1818; and died in New York City, October 24, 1838. He, too, was of the Society of Friends. His "system" was the plan of employing the more advanced pupils to instruct the class next below them, a plan originally introduced into England from India by Dr. Andrew Bell, with whom Lancaster had an acrimonious controversy as to which of the two was entitled to priority.

undimmed. She had often taken down her great son's speeches in shorthand, which she wrote with ease and elegance.

Baker had three brothers. Alfred C. Baker was a physician, who lived in Barry, Illinois, and practiced medicine there all his life, excepting a period of service in the army as surgeon. He was himself a clever public speaker. He died a few years ago, at the age of eighty-three. Thomas Baker, who lived in Carrollton, Illinois, while yet a young man, was thrown from his horse and dragged to death, in 1846. Samuel Baker was also a young man when he died of cholera in Pekin, Illinois, in 1851. There was one sister, who was born in Philadelphia, and died a few years since at Sausalito, California, at the age of seventy-three. She was the wife of Theodore Jerome, a California pioneer of '49, and the mother of Edward Baker Jerome, now and so long Chief Deputy Collector of Customs at San Francisco. E. B. Jerome was

captain and aid-de-camp on his uncle's staff in Virginia.

Baker's children were E. D., Jr., Alfred W., Caroline C., who became the wife of Robert J. Stevens, and Lucy, the wife of Charles Hopkins. E. D., Jr., was a colonel in the army, and died at Vancouver, Washington, while he was Chief Quartermaster in the Department of the Columbia, January 25, 1883, aged forty-four. Alfred W. was a lieutenant, and was aide to his father at the fatal day already spoken of. He was a clerk in the San Francisco Post Office for a very long period, and died here in April, 1898. Mrs. Stevens, whose husband was Superintendent of the San Francisco Mint during the first half of President Lincoln's first term, is a widow; so is Mrs. Hopkins; and both are living in Seattle, Washington. E. D., Jr., was married, but had no issue. Alfred W. never married.

Dr. A. C. Baker had three sons and

two daughters. None of the sons have had children. Lydell, the youngest, married recently.

Colonel Baker's wife was born in Baltimore, Maryland, and when sixteen years of age was married to a Colonel Lee, a very prominent man of education and refinement. They removed to Carrollton, Illinois, where they resided in their own elegant dwelling, built for them. She became a widow at the age of twenty, having then two children, Frank and Maria Lee. She and Colonel Baker intermarried when she was twenty-three and he twenty-one. She was a fine musician and sang very sweetly, and the Colonel having a fine tenor voice, they sang together, and naturally fell in love.

It is related that when the Colonel proposed he did it in this way, standing by her as she sat at the piano: He said, "Mary, lend me five dollars." Upon receipt of the money, he wrote the following promissory note:—

"Received now, five dollars
From Mary Ann Lee,
Which sum to repay
I now do agree—
Unless, in the mean time,
I shall, fond, take her,
And change her dear name
From Lee unto Baker."

Their pure and fresh life-currents, united thus early, flowed on together for thirty years.*

Mrs. Baker survived the Colonel a few years, dying in San Francisco at the age of fifty-seven. She was laid by his side.

The Colonel's "poetry," just quoted, cost him less effort, although proving more gainful, than the lines which follow on the next page.

* Innocent child and snow-white flower,
Well are ye paired in your opening hour!
Thus should the pure and the lovely meet,
Stainless with stainless, and sweet with sweet.
—*Bryant, to a young couple just wedded.*

TO A WAVE.

Dost thou seek a star with thy swelling crest,
O wave, that leavest thy mother's breast?
Dost thou leap from the prisoned depths below,
In scorn of their calm and constant flow?
Or art thou seeking some distant land,
To die in murmurs upon the strand?

Hast thou tales to tell of pearl-lit deep,
Where the wave-whelmed mariner rocks in sleep?
Canst thou speak of navies that sunk in pride
Ere the roll of their thunder in echo died?
What trophies, what banners, are floating free
In the shadowy depths of that silent sea?

It were vain to ask, as thou rollest afar,
Of banner, or mariner, ship or star;
It were vain to seek in thy stormy face
Some tale of the sorrowful past to trace.

Thou art swelling high, thou art flashing
free,
How vain are the questions we ask of thee!

I too am a wave on a stormy sea;
I too am a wanderer, driven like thee;
I too am seeking a distant land
To be lost and gone ere I reach the strand.
For the land I seek is a waveless shore,
And they who once reach it shall wander no
more.

These lines were written by Baker in the year 1849. Shortly after his death, Colonel John W. Forney, proprietor of the Philadelphia *Press*, corresponding with his paper from Washington City, obtained a copy from an intimate friend of Baker, and they appeared in the *Press* in November, 1861.

THE DEFENSE OF CORA

ALTHOUGH Baker's profession was that of the law, and he followed it through life, the Editor has not thought it proper to make that fact especially prominent in these pages, nor either to present him as a lawyer in the first instance, or let his last words be spoken in that role. Thus far his speeches have been given in the order of time. It now becomes convenient to interrupt this sequence, to give deserved place to the very best of his reported efforts at the bar. The occasion furnishes further illustration of the dissimilitudes in his career. This jury address led to the speaker's social ostracism for a time, at the hands of the same community which, five years later, followed his mortality to Lone Mountain amid emblems of universal sorrow. The offense of the prisoner then at the bar, moreover, was one of the chief inducements to that great popular uprising, the Vigilance Committee of 1856.

On the evening of the 17th of November, 1855, General William H. Richardson, United States Marshal for California, was shot and instantly killed by Charles Cora, a gambler, on the sidewalk on Clay Street, southwest corner of Leidesdorff, San Francisco. There had been a quarrel between the two men over the circumstances of their attendance at the theater a few nights before. Cora had brought a notorious woman of means, who bore his name, into the dress circle where General Richardson was seated with his wife, and the General had expressed his indignation in the hearing of Cora and the woman. The true nature of the dispute (although there was no allusion to it during the trial) and the opposed stations of the characters to it, were sufficient to invest the homicide with peculiar odiousness in the popular mind, and press and people denounced it with much heat. This

feeling ran through all the State. Expressive thereof was this editorial statement in the San Francisco *Herald:*—

"The truth is, that, from all accounts, we have come to the conclusion that the killing of General Richardson was a most atrocious murder. He was assassinated in cold blood, without a single effort at resistance. Those who have known him as we have, must be assured he would have sold his life dearly if he had the slightest chance. The deceased gentleman was of a most kind, generous, and noble nature. That such a man should fall by such a hand, is to be everlastingly deplored."

And this, from the Stockton *Argus:*—

"A man is shot down in one of the principal streets in the chief city on the Pacific Coast, by a man who lives in a bawd-house, and who is instigated to the murderous deed by a harlot, and immediately $40,000 is raised by subscription to cheat the law of its course, and protect the murderer from suffering the penalty of his crime. Is there nothing wrong in public opinion here? Those persons who have raised this large sum are recognized as acquaintances, and often as associates, of men who would not stoop to any dishonorable act; and the harlot who instigated the murder of Richardson, with others of her kind, are allowed to visit the theaters and seat themselves side by side with the wives and daughters of citizens. Is there nothing wrong in public opinion here? There is, and it should and must be corrected."

As a ripple against the current, and as showing, in charitable possibility, some slight mitigating circumstance, may be given this, from the evidence taken by the Coroner:—

"Dr. Mills sworn: I reside on Stockton Street; was not present at the occurrence last night [the killing]; was present at the occurrence of the previous night; was in the Cosmopolitan Saloon; General Richardson and several others were there; Mr. Cora was introduced to General Richardson, and they all took a drink; went to the door together; Cora returned, and asked, 'Have I any friends in the room? This man is going to slap my face;'

General Richardson came in smiling, and said, 'I promised to slap this man's face, and I had better do it now;' some person then said, 'Oh, you must not do it,' and the thing was stopped; some words afterwards occurred; some person proposed to introduce General Richardson to Cora again, but it was not done; don't know why; think the General was a little tight; Cora appeared to be sober." There was other like testimony.

The Coroner's jury, after hearing the evidence of sixteen witnesses, among them the Governor of the State John Bigler, found a verdict that the killing was premeditated, and there was nothing to mitigate the offense.

Cora was indicted for murder, and his trial was opened on the 8th of January, 1856, in the old Fourth District Court, Judge John S. Hager, presiding. Hon. William A. Piper was foreman of the jury. This gentleman, now a large capitalist, was a pioneer of '49; he was already a considerable holder of real estate, and had been a member of the Board of Assistant Aldermen. In later years he was a member of the National House of Representatives (1875-76), and is still a citizen of San Francisco. A. B. Forbes, now and for so many years the general agent on this Coast for the Mutual Life Insurance Company, of New York, was another member of this jury. He was then senior member of the firm of Forbes & Babcock, agents of the Pacific Mail Steamship Company. The other names were Charles H. Vail, John J. Haley, Edward P. Flint, M. Joyce, Jacob Mayer, Thos. C. D. Olmstead, William H. Stowell, John M. Easterly, A. Holmes, and I. Ward Eaton. This was a strong and worthy array.

The prosecution was conducted by Henry H. Byrne, then and for so many terms District Attorney. His associates were Alexander Campbell, who made the opening statement, (he is still in harness, at a great age, in Los Angeles), and S. W. Inge, who had represented Alabama in the lower house of Congress, and who closed the argument. Baker made the closing address on behalf of the prisoner. Hon. Thomas W. Freelon, the county judge before whom Baker had made a great plea in a notable

case of embezzlement, went into Judge Hager's court to listen to him now. Afterward he pronounced the speech as "brilliant, eloquent, impassioned."

District Attorney Byrne had concluded his argument with these words: "Gentlemen: We live in an age in California resembling the days of the breaking-up of the Roman Empire. Corruption sits in almost every quarter, even in high places. A man's life is of less value than that of a horse; there is no security, for human life is trifled with. Our character as a country has become stained by the aspersion. And here is another victim. Mercy murders in pardoning him that kills. Let this man go, and you create a pandemonium in San Francisco."

Gen. McDougall, Baker's associate, who followed Byrne, had said: "We are compelled to fight a foregone conclusion on the part of the community. They have judged the prisoner already, and public opinion is pressing on us from all sides. If this prisoner is convicted, I say it solemnly, it will be judicial murder."

Baker spoke on January 14th. He felt his environment, and his sensibility constrained him to take notice of the prevailing state of public opinion; and, in so doing, he paid that tribute to the legal profession which is the most beautiful utterance in the speech. His other bold declaration, in regard to the union between Belle Cora and the prisoner, that "they were bound together by a tie which angels might not blush to approve," was the subject of emphatic and persistent censure. The noble advocate was misunderstood.

The jury were unable to agree upon a verdict. After being out forty-one hours, they were discharged on January 17th. It was learned that they stood six for manslaughter, four for murder in the first degree, and two for acquittal. The prisoner was remanded to the County Jail. Belle Cora regularly visited him there. On one of these occasions, in due form of law, she was united in marriage to the man whose final ignominy was yet unseen; and *then*, quite possibly, "they were bound together by a

tie which angels might not blush to approve." But it was in the shadow of doom. Before the time set for Cora's second trial, the GREAT COMMITTEE took him. His fate was precipitated by the act of Casey in killing the famous editor of the *Bulletin*. James P. Casey, a local politician of some influence, and foreman of Crescent Engine Company, No. 10, being editorially arraigned by James King of William, in his paper, for offenses charged to have been committed in New York City several years prior, shot Mr. King fatally, on the street, May 14, 1856. The editor expired on May 20th. On the 22d, while a throng of friends bore his body to Lone Mountain, another multitude, (his friends, too, THE COMMITTEE,) marched by ranks to the County Jail, planted a cannon in front of it, took both Casey and Cora from their cells, and publicly hung them from the windows of the committee-rooms, on Sacramento Street, near Front.

Belle Cora was then twenty-nine years of age. She was a native of Baltimore, Maryland. (Gen. Richardson was also a Marylander; Cora, an Italian.) Belle continued her residence and her occupation in San Francisco, dying on the 18th of February, 1862. A short history of her life was circulated.

During the reign of THE COMMITTEE, lasting several months, attended by other executions and many banishments, the city being officially proclaimed by Governor J. Neely Johnson as in "a state of insurrection," the plumage of the "Old Gray Eagle" was badly ruffled by the storm. He spread his wings and took flight (not metaphorically this time) to the mountains, resting for a time in El Dorado County, and on the other side of the Sierra, in Nevada.*

The Editor has seen the following eloquent allusion to this experience of Baker, attributed to General John A. Collins; but when he accosted him some years before his death, that worthy man said he did not remember

* The spirit of the human race resembles that of the individual man; it shines and is eclipsed by turns.—*Fontanes*, 1800.

having written it. If General Collins did not write it, who did?

"Some years ago the people of San Francisco chased away an eloquent old man [but he was only forty-five—EDITOR], who took refuge in the mountains of Nevada. He was afterwards brought back from the sacrificial heights of Stone River, a mangled and speechless prophet of freedom, and fifty thousand people laid him tenderly on the altitudes of Lone Mountain, within hearing of the eternal dirges of the ocean—while his glorious words echoed and still echo in the valleys and mountains from the fountains of the San Joaquin to the sources of the Columbia: 'Years, long years ago, I took my stand by Freedom, and where in youth my feet were planted, there my manhood and my age shall march.'"

Our advocate will now address the jury.

THE DEFENSE OF CORA.

If the Court Please, and Gentlemen of the Jury: I sincerely trust that a night of serene repose, after the exhausting labor that you have undergone, has enabled you to return here to-day with dispositions equal to those which you have shown during the whole course of this investigation; and while I feel that upon the defense, which I am about to end, will, in some sense, depend the eternal welfare of a human being, I feel myself honored and happy in being allowed, in such a case, and for such a purpose, to address a jury who have proved, not to the counsel alone, not to the audience alone, but to the prisoner himself, a determination to render strict and impartial justice; and I am instructed to say for him, what he could not have said when the trial began, that whatever may

be the end of this day, he has a profound and abiding conviction of your truth and justice. He cannot but feel that to you is delegated a little less than supreme power—that none but the Almighty can control the consequences of your judgment; and with this painful thought pressing upon his mind and heart, I am here to say for him that he is willing to trust in your hands the issues of life and death. And, gentlemen, while I advance to the discussion of this case, I cannot forget the imposing aspect that is thrown around the prisoner on this occasion. The whole majesty of the law of a great and civilized country—all that care in the selection of a jury, and labor in the arrangement of testimony, and zeal on the part of the prosecution, and care on the part of the defense could do, has been done. And while it is true, while it is very true, that the man who is before you on trial for his life, is a man of base character, and in some respects vicious—

whose position in life is low — whose condition at this bar is that of loneliness, and dependence upon one human being alone for sympathy and kindness; — with all that, he is here guarded by the care of the judge; hedged around by the justice of the jury; protected by all the sanctions of the law; and poor and humble and degraded though he be, he is fenced about and cared for "with all the divinity that doth hedge a king."

It is a painful and impressive spectacle. Nor are we to forget that it is the province of the law to render justice to the memory of one who is no longer among us. It would be idle for us to disguise that the appeal by Mr. Byrne (though he disclaims it) — his allusion to the bloody grave, and the verdant sod, and the tearful widow, and the unconscious orphan — must weigh, and will weigh, upon your minds. We are but men; we are not deprived, by being selected for a seat in this place, of the

passions and sympathies of human nature; and I am far, and very far, from complaining of anything that has been said, or may be said, upon that subject. I am not inclined at all to disguise it. It is not they alone who feel an interest in the case; something more than a concern for professional reputation presses them to extremes. It may be that at the very moment when I speak, some tearful woman may be upon her knees in the depths of her closet, imploring the Almighty to open your hearts to do justice to the memory of the husband she has lost. I don't complain of these things; I don't shrink from their being mentioned; I feel them; my heart quivers while I think of them. I do not wish that in any portion of this trial you should forget them.

But there is another aspect of this case to be thought of. The man who is here struggling for life — who is arraigned for the death of one claimed

to be one of the purest of our citizens, is said to have followed degraded and vicious pursuits. It is said of him that he is cared for by a woman of very bad relations in life, whose name, indeed, is a reproach. Against this man at the bar the whole public press — that mighty engine of passion and power — have poured out all the concentrated vials of their wrath and indignation. Every portion of his career has been maligned; every motive of his heart has been perverted; every act of his life has been misrepresented; and imagination, if not upon its highest and purest, upon its boldest wing, has applied to him every epithet of reproach, and related every narrative of shame. Against this we have but one defense — against this we have but one resource, but one hope. It is to be found in time, which tempers all things — it is to be found in human sympathy and the justice of this tribunal — in the merciful consideration of human

infirmity — and at last in stern, naked, and irresistible truth. And if the lips about to speak to you are feeble, and if the thoughts about to be uttered are trembling and uncertain,— if our efforts shall be marred by the ingenuity, skill, and eloquence of the gentleman who is to follow,— it is but for us to rely solely upon inflexible truth; and it may be for him [pointing to the prisoner], with heart and lips all unused to prayer, to lift his thoughts to the Great Father of life, who made him as well as his Honor on the bench, and the jury in the box, to guide, impress, stimulate, and enlighten his advocate to press his claims to liberty, life, and hope.

The prosecution in this case charge that the defendant, on the night of the 17th of November, 1855, maliciously and without just cause took the life of General Wm. H. Richardson, Marshal of the United States for the Northern District of California; and that he is attempting

to sustain himself by a conspiracy against truth, honesty, and honor; and the inferences of his character are, by comparison, more fatal to his hopes, because they say his victim was a man of elevated character and mind. This is the beginning of this case—this is the end of this case—the comparison is pressed on us at every step we take. It is idle for us to deny that the shield of character which we attempt to hold up before this defendant is in many parts frail and broken. He yielded in his youth to temptations which, like thronging devils, have pursued him all his life, and he feels to-day more bitterly than words of mine can express the want of a shield spotless and pure in this moment of his great trial. Whether he be a man of unmixed evil, it is for you to determine; whether there be not something of native good in a man who, amid a life of such vice and vicissitude, has congregated around him the good wishes of many friends—

early friends — friends of a better day — it is for you, yes, to judge. No such temptations crowd upon you. The men with whom you mingle are not flushed with passion or steeped in crime. With you, and with all of us, it is peace, and calm, and quiet content. With him it is far, very far different; and I say, being so, and so most undoubtedly, amid this career he has been able to preserve the balance of his mind and the control of his temper in regard to public law, and in regard to private right. His quiet career is so much at least to be remembered in his favor. I plead it for him; I lay it before you; I ask you to consider it. Let it be the wand that will bring up from the depths of your hearts a bright, gushing stream from the fountains of mercy. But while we say this much, as to this man, we are not willing that the comparison should be made worse than it is. We are not willing that this man, while in some respects so vicious, and in other

respects so amiable, should be arrayed, by way of comparison, against the life, conduct, and character of another man, dead though he be, with every virtue exaggerated and every good quality increased. We are compelled to say that the argument made against our client, by comparison with General Richardson, is false in fact, and false in deduction. We make the issue; they force it upon us. I would be recreant to our duty, in pleading for this man's life, if I feared to meet this issue, and I do not. We attempted in the beginning of this controversy to show —

1. That Cora, whatever his other habits may have been, was a man of peaceful life and conduct;

2. That whatever the character of Richardson may have been in other respects, he was a turbulent, dangerous man.

This we announced. What have they done? They have forced upon us a

broader issue and a more extended debate. They say, we will show, that not only was Richardson kind, quiet, orderly, peaceful, but that he was a man of generous impulses, of magnanimous conduct, of high tendencies of gallantry, of bravery, of chivalry,—incapable of assailing a man without preparation,—incapable of deceit in action,—incapable of falsehood in statement, or of aught unworthy of the high-sounding names attached to him. They got Mr. Nugent.* He says that General Richardson was not only peaceable and kind, but chivalric, gallant, fair, honorable, incapable of taking an advantage.

Well, now, it was impossible for us, after that notice, and after we heard that line of proof, not to turn our attention to the facts, and inquire whether this be so or not; and when we made up our minds to accept the challenge, and to

* John Nugent, editor of the *Herald*, which had pronounced the homicide murder. But Mr. Nugent and his paper were soon to oppose the Vigilance Commitee.

enter into that controversy, we did it, well knowing all the uses that could be made of it in declamation, if we made the attempt. I would be insensible to the many merits of Colonel Inge and Mr. Byrne if I did not know how well they will declaim about the raking up of the ashes of the dead. They will say that Richardson is lying now in his bloody grave, and that not content with that, we are arraying against his memory all the forgotten stories that can be recalled of his past career.

Is that true? Did we do it? Could we avoid what we have done? When I stand up there and find my client overwhelmed with a mountain of infamy, and plunged into the depths of degradation by comparison with the man who is now lying in a bloody though quiet grave, shall I suffer it to pass? Never. They may declaim till the heavens fall—they may accuse us of want of feeling—of mercy, of anything else. I care not. I

appeal to the facts. Whatever the prisoner is, he was peaceful, amiable, kind. Good though the other man was as a husband and a father, he was violent, dangerous, and, in his anger, deadly. As for being magnanimous and honorable, he was not so; but what he was from the first day that we hear of him, he remained to the last—full of faults, though not without redeeming qualities. We must prove it by his general reputation. What was that reputation here? Why did Mr. Turner tell us that when he came in contact with him, had it not been for his coolness he would have lost his life? What was his reputation the night Cora killed him? What did Turner think of him? What IS reputation? Why are not we allowed to make an investigation as to specific facts? Why is it that, with the reputation of a peaceable man, he is always in trouble? Have *you* been in trouble? Are *you* assaulted? Are *you* seen belted behind a knife and

pistol day and night, in season and out of season? Are *you* reputed to be sudden and quick in quarrel? Are your past lives checkered with adventure after adventure, which your best friends dare not repeat? Is *that* peace? Are you seen at the very depths of midnight in more than doubtful company, and reckless, drunken, desperate, meditating assassination, regardless whether your victim be friend or foe? When they crowd upon Cora, and upon Glennon, and upon Thomas, and upon Whitnell, and upon Smith, and upon Willis, and charge infamy and perjury, is not that, to use the language of Mr. Byrne, "piling Pelion upon Ossa, or Ossa upon Pelion"? Shall we make no report? What could Cora expect from Richardson? Could he say, with the pistol to his breast, "This man is too magnanimous to shoot me,—he is too honorable to assail me,—he has lived a life of purity and peace too long to vary from his usual course."

Gentlemen, there is no character to throw into the scales against us. Richardson bore no flaming sword of reputation to weigh against our cause and make it touch the beam. [The advocate here commented at great length upon the various passages in the history of General Richardson, as detailed by the witnesses—and then proceeded.]

The other side complain that we have three counsel, and they say, "Cora is well able to pay for their services. If he had been poor, they would not have been here." Mr. Byrne ought to think better of his profession. Mr. Byrne ought to be governed by better impulses, or rather, he ought to refrain from doing injustice to his opponents.

The profession to which we belong is, of all others, fearless of public opinion. It has ever stood up against the tyranny of monarchs on the one hand, and the tyranny of public opinion on the other; and if, as the humblest among them, it

becomes me to instance myself, I may say with a bold heart, and I do say it with a bold heart, that there is not in all this world a wretch, so humble, so guilty, so despairing, so torn with avenging furies, so pursued by the arm of the law, so hunted to cities of refuge, so fearful of life, so afraid of death;—there is no wretch so steeped in all the agonies of vice and crime, that I would not have a heart to listen to his cry, and a tongue to speak in his defense, though around his head all the wrath of public opinion should gather, and rage, and roar, and roll, as the ocean rolls around the rock. And if I ever forget, if I ever deny, that highest duty of my profession, may God palsy this arm and hush my voice forever.

[Colonel Baker here went into a long analysis of all the evidence.]

Mrs. Knight swears that Richardson had one arm raised. Two others, for the prosecution also, say he had not. Remember that the raising of his arm

is life or death to us. If Cora killed him with his hands down, it is murder; if there was a struggle, it was different. I believe Richardson was brave. I don't believe that the man lives who, twice in one day, could back Richardson up against a door, and put a pistol to his bosom and hold it there, while he, Richardson, cowered like a slave. Is there no moral law to be observed? Is there no correspondence in the nature of things? Did Richardson, as Mrs. Knight says, raise his arms? Did he, as Cotting says, have his arms pinioned? Now, before you go one step farther towards a conclusion, you must be satisfied on that point, and you must all agree upon it. Again, a pistol, cocked, was found near his hand. Now, I want to utter a word upon which eternal things may depend. I ask you, was that pistol drawn before Richardson was shot? Can you believe he stood up in that doorway for four minutes with a pistol

cocked and say he was unarmed? Mr. Cook may have been mistaken, but whether he was or not, the pistol was there, the knife was there. They were drawn; he drew them; they were drawn in combat; and, being drawn, it justified the utmost extremity of arms, before men or angels.

In relation to the impeachment of the witness Thomas, it is no argument that he did not tell the truth because he sells fruit, or because he failed in business, or because his character in relation to women is bad. I might enter into an elaborate argument to show that because he sells fruit he is all the more liable to tell the truth, because he deals in the fruits of nature. I would be very sorry to say that he told a lie because he failed in business, because, then, all the good men who have failed here, and who will fail, would be considered unworthy of credence. And as to his character in relation to women, I have only to say

that charity is one thing, and veracity another. The theory of the prosecution is that we bribed Thomas, and Glennon, and Marsh, and Corbiniere. It would be strange if in all this bribery we could not get one man who saw some identical fact fatal to the prosecution. Why did not we get some one to put into the mouth of Richardson such words as "D—n you, I'll shoot you, anyhow." I cannot see that there could be any more perfect clincher to the case. I ask you, if our side intended to corrupt or bribe, why could we not get some man to prove that? According to their account, could not Glennon swear to anything? The case rests on the probability of statements as to facts, and there is something in the human heart native to truth which will give credence to the story of our witnesses, unless there be some specific affirmation to the contrary.

I will now proceed to grapple with the great bugbear of the case. The

complaint, on their side, is that Belle Cora has tampered with the witnesses. Mr. Byrne has chosen to declare that the line of defense was concocted in a place which he has been pleased to designate as a haunt of sensuality. In plain English, Belle Cora is helping her friend as much as she can. It may appear strange to him, but I am inclined to admit the plain, naked fact; and in the Lord's name, who else should help him? Who else is there whose duty it is to help him? If it were not for her, he would not have a friend on earth. This howling, raging public opinion would banish every friend, even every man who once lived near him. The associates of his life have fled in the day of trouble. Sunshine friends, who basked in the noontide of its beaming, have vanished in the hour of its decline. It is a woman of base profession, of more than easy virtue, of malign fame, of a degraded caste,—it is one poor, weak, feeble, and, if you like it, wicked woman,

—to her alone he owes his ability to employ counsel to present his defense.

What we want to know is, what have they against that? What we want to know is, why don't they admire it? What we want to know is, why don't they admit the supremacy of the divine spark in the merest human bosom, as if to teach that there is good in things most evil? The history of this case is, I suppose, that this man and this woman have formed a mutual attachment, not sanctioned, if you like, by the usages of society,—thrown out of the pale of society,— if you like, not sanctioned by the rights of the Church. It is but a trust in each other, a devotion to the last, amid all the dangers of the dungeon and all the terrors of the scaffold. They were bound together by a tie which angels might not blush to approve. A bad woman may lose her virtue; it would be infinitely worse to lose her faith according to her own standard. If you mean to say that

it is a reproach to this man that he has one friend, and that a woman, to stand by him, I say that that is, perhaps, her greatest virtue. A man who can attach to him a woman, however base in heart and corrupt in life, is not all bad. A woman who can maintain her trust, who can waste her money like water to stand by her friend, whether that friend be her lover or paramour, amid the darkest clouds that can gather, that woman cannot be all evil; and if, in vice, and degradation, and pollution, and infamy, she rises so far above it all as to vindicate her original nature, I must confess that I honor this trait of fidelity. That she might go too far in the defense of her friend, no man can doubt. If I were charged with the crime of murder, and my friends, insects born in a summer's beam, were to flee from me, if my good name stood me in no stead, if I were bound at the altar, if the sacrificial priest were to have his arm bared and knife

brandished to strike — my wife would stand by me, and if she should bribe a juror, would I condemn her? Would you? The rigid moralist would condemn, and the stern judge would punish, but her act would accord with the principles of human nature — irrepressible, uncontrollable, higher than all law.

That a woman should, in adversity and bitterness, and sorrow and crime, stand by her friend in the dungeon, on the scaffold, with her money, and tears, and defiance, and vengeance, all combined, is human and natural. This woman is bad; she has forgotten her chastity — fallen by early temptation from her high estate; and among the matronage of the land her name shall never be heard. She has but one tie, she acknowledges but one obligation, and that she performs in the gloom of the cell and the dread of death; nor public opinion, nor the passions of the multitude, nor the taunts of angry counsel, nor the vengeance of the judge, can sway

her for a moment from her course. If any of you have it in your heart to condemn, and say "Stand back! I am holier than thou," remember Magdalene, name written in the Book of Life.

I feel prouder of human nature. I have learned a new lesson. Hide him in the felon's grave, with no inscription consecrated to the spot; and when you have forgotten it, and the memories of the day are past, there will be one bosom to heave a sigh in penitence and prayer, there will be one eye to weep a refreshing tear over the sod, one trembling hand to plant flowers above his head. Let them make the most of it. I scorn the imputation that infamy should rest on him for her folly and her faith. Let them make the most of it, and when the great Judge of all shall condemn,—when, in that dread hour, you and I and she shall stand at the common tribunal for the deeds done or aimed to be done at this day,—if this be remembered against

her at all, it will be lost in the record of a thousand crimes perpetrated by high and noble souls. Let a man who feels in his heart no responsive type of such traits of goodness, of truest courage in darkest destiny, let that man be the first to put his hand to the bloody verdict. Beyond this there is nothing more to be said. The imputation on our witnesses is that they went to Belle Cora's. The imputation on their witnesses is the same thing. What then? It proves nothing.

There is public opinion now; there was no such thing as genuine public opinion at the time of the homicide—it was bastard. It is now calm, intelligent, reflecting, determined, and just. If you mean to be the oracles of this public opinion, in God's name, speak! If you mean to be priests of the divinity which honest men may worship, answer! If you are the votaries of the other, you are but the inflamed Cassandra of a diseased imagination and of a prurient

public mind. If of the former, I bow at your feet, in honor of the mysteries of your worship. Against this man the public press, so potent for good, so mighty for evil, inflames and convulses the public mind and judgment. There is not one thing they have said that is in accordance with truth and justice; there is not one version they have given that is based on testimony and facts.

My task is performed. In the name of our common humanity; in the name of Him who died for that humanity; by the remembrance of your mothers and fathers; by your respect and admiration for woman, the nearest and dearest ties that we can feel; by your consciousness of your own imperfections, I adjure you to consider in mercy. And, as you deal with the prisoner, may the common Father of us all deal with you. So may the prayers of the mother whose heart yet yearns toward him reach you. So may his future life evince the sincerity

of his repentance in the solitude of the jail. So may you be prosperous. And so may you answer for your judgment on that great day when you and the prisoner at the bar shall alike stand up to answer for all the deeds done in the body.

DEDICATION OF LONE MOUNTAIN CEMETERY

IMMORTALITY

DEDICATION OF LONE MOUNTAIN CEMETERY — IMMORTALITY.

The first shall be last. Colonel Baker delivered the address at the dedication of Lone Mountain Cemetery on the 30th of May, 1854. His body was there interred, with imposing ceremonies, on the 11th of December, 1861. On the last occasion, after all else had been done, Thomas Starr King (whom Baker's death had left greatest in the State), standing by the unfilled grave, said: "We have borne him now to the home of the dead, to the cemetery which, after fit services of prayer, he devoted in a tender and thrilling speech, to its hallowed purposes."

This speech has been lost, or it would have the first place in this collection.

Bishop Kip, of the Episcopal Church, and Rev. F. T. Gray, also made addresses on that occasion.

Frank Soulé and F. B. Austin read original poems. The Mayor, C. K. Garrison, gave a history of the private enterprise resulting in the setting apart of the cemetery. There were prayers by Bishop Kip and Rev. A. Williams; a selected choir rendered three anthems and the Doxology; and the "Benediction" was by Rev. W. A. Scott, Presbyterian.

The city cemetery up to that time was in the area now covered by the City Hall, between Market, McAllister, and Larkin streets. The Lone Mountain undertaking was by a private corporation, composed of Nathaniel Gray, Frank B. Austin, and William H. Ranlett, who purchased a tract of one hundred and seventy-three acres. The title Lone Mountain, changed many years later to Laurel Hill, was selected by a council of advisers, after the name of the elevation touching the tract on the south.

It was a long time before the old ceme-

tery was discharged of its solemn trust and its precious dust, to make place for the present City Hall. The remains of Hon. Edward Gilbert were not removed therefrom to Lone Mountain until May 2, 1863. This was done by Eureka Typographical Union, to which Mr. Gilbert belonged. Baker, in his reply to Benjamin, referred to the many defeats of the Whig party. If he had arrived in San Francisco a little earlier, he would have seen a Whig, in the person of Gilbert, representing the city in the lower House of Congress. Gilbert came here as early as the spring of '47. He was raised to the printer's trade. On January 4, 1849, he and others founded the *Alta California* newspaper, and he wrote the editorials. He was a member of the first Constitutional Convention, 1849. On August 2, 1852, he fell in a duel with pistols with General James W. Denver, in Sacramento County. He was a native of New York, and at his death was thirty years of age.

Baker, in his Broderick Oration, links his name with those of Broderick and Ferguson. General Denver was one of three brothers very prominent in Democratic politics, all acquiring high official station. The General was State Senator from Trinity when he fought this duel. Afterwards he was twice Secretary of State, and resigned on being elected to Congress. He was a brigadier-general in the Federal Army during the War of the Rebellion. Colorado's capital is named after him.*

The attendance at the Lone Mountain Dedication was large, the weather beautiful—and observe the date, MAY THIRTIETH! The ladies comprised at least one half of those present. Of course there

*Broderick and Denver were in the State Senate at the same time, 1852. Although belonging to the same party, they were not cordial, and Broderick in conversation referred to Denver as "the huge-thighed Senator from Trinity." Denver, who was a very large man, of splendid presence, smarted under this, but it was hardly provocation for a duel, even in those days. He was still biding his time when Broderick was called out by Terry.

were no street-cars at that day — indeed, there were no streets within miles of the place. The only available route was along Pacific Street, and the old road to the Presidio, and thence south over the high ridge leading out to Point Lobos. Omnibuses left the City Hall (since the Old City Hall — *now* the Hall of Justice) every half hour from 8:30 to 10:30 A. M. The exercises were begun at eleven, and occupied the rest of the day, with intermissions.

It was a pleasant nook, then called "The Dell," not especially attractive but for the circumstance that nature had reserved and protected it from a girdle of sand-dunes. Before they carried Baker back to his illustrious sepulture, the prospect far around was redeemed by the hand of man, and was all green and gold with the refreshment of streams and fountains. "An air of such utter loneliness and solitude pervades the place," said a writer of that time, refer-

ring to "The Dell," "that a stranger, upon entering it, before he had seen a grave or a tomb, would at once come to the conclusion that it was a cemetery. Nature seems to have designed it for the very purpose for which it has been set apart."

The Editor, who arrived in San Francisco some weeks prior to this event, would like to show the kind reader to the spot where the ceremonies took place.

"The Dell" was in the western end of the cemetery, near the Old Lodge, which was moved there in 1894, to make place for the present splendid Lodge, or office building. The then somewhat romantic little hollow was cleared of underbrush many years before that time, and filled in with sand. Many hundreds of burials have been made there, and it is still being used for this purpose.

There is nothing to mark the old spot or recall the old day. The old Lodge,

at least, instead of being placed hard by, might well have been planted on the very site where Baker stood. The image of Baker in white marble, "Godlike, erect," a shaft of light, would be fittest memorial—would it not? The lips in speech, a hand upraised, and the noble head uncovered to the winds of heaven? But read on.

The city and the State were very young. Not many who made up that presence recognized Baker as he stood before them. He was even then quite gray, at the age of forty-three.

An extract from Baker's speech has been preserved. It is as follows:—

Perhaps it may be well to acknowledge as a principle the great fact of immortality. No man desires annihilation. No man, whatever be his faults or his crimes, is willing to go into endless night; and when we come here, however loath we may be to stand in the Divine Presence, still we recognize the fact that we are immortal, and the truth peals like eternal thunder in our ears, "Thou shalt live forever!" With these thoughts we dedicate this spot. Here future generations, in long and solemn procession, shall bring warriors who have given their lives for their country; statesmen, remembered by the liberty they helped to create, and the institutions they aided to perfect. Here shall be brought the poet, who, buoyant,

passed through sea and land, through earth and sky, and vale and river, penetrating the affections and accomplishing the refinement of men. The projector—worn with toil and gray with thought—leaving monuments to his fame and memorials of his greatness, here, too, shall come to end his life; and, too, the tender maiden, smitten in early blossom;* and the little child, the pledge of love, to whose grave the aching heart shall oft repair to weep and pray.

Rev. Albert Williams, who was present, refers thus to this dedication, in his book, "A Pioneer Pastorate":—

Intensely interesting and ever-memorable was the eloquent oration delivered by our singularly gifted Pacific Coast orator, Colonel E. D. Baker. While every part of that oration was most fitting and impressive, and passage after passage thrilled the hearts of the large assemblage gathered in "The Dell," especially sublime was that portion of which the theme was the Resurrection, and which the speaker closed with a recitation, in truest pathos, of the stanza from Dr. Watts:—

God, my Redeemer, lives,
  And often from the skies
Looks down and watches all my dust,
  Till He shall bid it rise.

His aspiring spirit was advised of the invisible things of a higher life.† He

* At last the rootlets of the trees
Shall find the prison where she lies,
And bear the buried dust they seize
In leaves and blossoms to the skies.
So may the Soul that warmed it, rise!
—*Holmes.*

† Believe all that thy heart prompts; for everything that it seeks, exists.—*Plato.*

could not be better pictured to aftertimes than as he stood now — nor have a more commanding place in the memory of men.

We will leave the great man *there!* His mortality is there, indeed, to remain, as he said over Ferguson, "in its last resting-place until the trump of the Archangel shall sound"; but we will leave *the man* there, also, in his abounding prime. We will take our last affectionate look at him, while he is speaking, as it were, to time and to eternity, and pointing upward.

It was with such a sentiment that Dickens parted with AGNES, that best creation of his mind, said to be the finest character in the whole range of fiction. He had seen her in that attitude more than once, when she was more persuasive than speech — an angel in the house of sickness and the shadow of death — and he gave her this final apostrophe:—

"Oh, Agnes! Oh, my soul! so may thy face be by me when I close my life indeed; so may I, when realities are melting from me like the shadows which I now dismiss, still find thee near me, pointing upward!"

Very often, in professional and party conflict, on the battle-field, and in the high councils of State, Baker attracted the universal eye. But he really never stood on a more elevated tribune than when, on the very verge of the continent, under the inducement of the illimitable sea and sky, and pointing upward, he asserted the immortality of the soul of man.

We will leave the great man there — rather we will keep him ever present to the mind and heart, as he stood on the ocean's bound that far-off day — in the new home for mortal rest, — in "The Dell" — pointing upward!

INDEX

INDEX.

PAGE

Adams, John Quincy: Views on Secession.....149, 151
"Affection, Forgiveness, Faith"..... 52
American Theater Speech..... 89
Anecdotes: The Duke of York..... 218
Old Bolling Green..... 199
Dr. Johnson..... 137
Governor Low's Wager..... 89
Baker's Courtship..... 281
Apostrophe to Science..... 22
Atlantic Cable Address..... 15
Austin, F. B.: Poet at Lone Mountain Dedication..... 322
Baker, E. D.; Introductory Notice..... 9
Further History. ...13, 40, 63, 131, 227, 243, 273, 289, 319
Death of..... 273
Family of..... 278
Poem by..... 283
Benjamin, Judah P.: Reply to..... 131
Bigler, Governor John: Witness in Cora Case..... 289
Brady, James T.: Allusion to..... 227
Breckinridge, John C.: Reply to..... 243
Broderick, David C.: Notice of..... 63, 324
Duel with Judge Terry..... 64
Baker's Oration..... 67
Byrne, Henry H.: District Attorney in Cora Case..... 289
Campbell, Alexander: Counsel in Cora Case..... 289
Casey, James P.: Hung by Vigilance Committee..... 291
Cerro Gordo, Battle of: Allusion to..... 236
Character..... 44
Collins, John A.: Tribute to Baker..... 291
Comet of 1858: Allusion to..... 30
Cora, Charles: Trial of..... 287
His Execution..... 291
Marries Belle Cora in Jail..... 291
Baker's Defense of..... 293

Index.

Dedication of Lone Mountain Cemetery..... 319
Denver, General Jas. W.: Duel with Edward Gilbert. 323–324
Dickens and "Agnes" 329
Dickinson, Daniel S.: Tribute to Baker..... 227
Dix, General John A.: Allusion to 227
Douglas, Stephen A.: Allusions to 93, 132, 189
Duels—Dueling..... .....48, 64, 323
Baker's Protest..... 80–81
Duke of York as Bishop; Anecdote of..... 218
Eaton, I. Ward: One of the Cora Jury..... 289
Easterly, Jno. M. " " 289
Enthusiastic Scene in American Theater..... 115
Eureka Typographical Union: Burial of Gilbert..... 323
Ferguson, Wm. I.: Notice of..... 39
Duel with Geo. Pen Johnston..... 39
Baker's Eulogy.. 41
Fessenden, Wm. Pitt: "The Tarpeian Rock"..... 244, 261
Flint, Edward P.: One of the Cora Jury..... 289
Forbes, A. B.: " " 289
Forney, John W.: Baker's Poem..... 284
"Freedom": Tribute to 125
Freedom and Slavery.....104, 109, 115, 124, 215
Freelon, Judge Thos. W.: Baker's Plea in Cora Case.... 289
Fremont, John C.: At the American Theater..... 92
Further Reference.....117, 118
Fugitive Slave Law, The.....188, 190, 195
Garibaldi: Allusion to..... 115
Garrison, Mayor C. K.; Presides at Lone Mountain Dedication..... 322
Gilbert, Edward: Duel with Denver 323
Gray, Rev. F. T.: At Lone Mountain Dedication.... ... 320
Gray, Nathaniel: Lone Mountain Cemetery Association 322
Gwin, William M.: References to..... .....63, 132
Hager, Judge John S.: Presides at Trial of Cora..... 289
Haley, John J.: One of the Cora Jury..... 289
Halleck Block: On Site of American Theater..... 89
Holmes, A.: One of the Cora Jury..... 289
Immortality: Lone Mountain Cemetery..... 321
Inge, S. W.: Counsel in the Cora Case..... 289

Index.

"Irrepressible Conflict, The".....121, 122
Jackson, Andrew: Views on Secession.....152, 153
Jerome, E. B.: Captain on Baker's Staff..... 279
Johnson, Governor J. Neely: Proclaims San Francisco in Insurrection..... 291
Johnson, Dr. Samuel: Anecdote of..... 137
Johnston, Geo. Pen: Duel with Ferguson.....39–40
Joyce, M.: One of the Cora Jury..... 289
King of William, James: Killed by Casey 291
King, Thomas Starr: At Baker's Sepulture..... 321
Kip, Bishop W. I.: At Lone Mountain Dedication..... 321
Lane, General Joseph: Allusion to..... 103
Latham, Milton S.: Election as Governor..... 64
Presents Baker's Credentials in Senate..... 131
Legal Profession, The: Baker's Tribute..... 306
Lincoln, Abraham: Carries California and Oregon.... 131
Further Reference.44, 93, 97, 107 118, 188, 189, 193, 243
Lone Mountain Cemetery: Dedication in 1854..... 321
Original Incorporators 321
Low, Governor F. F.: Loses a Wager with Baker..... 89
Mayer, Jacob: One of the Cora Jury 289
Missouri Compromise, The: Reference to.....196, 198
Motley's "Dutch Republic": " " 174
McDougall, James A.: Counsel in Cora Case. 290
Other Reference..... 266
Nesmith, James W.: Baker's Colleague in the Senate.. 120
New York Monster Mass-Meeting of 1861 227
Nugent, John: Witness in Cora Case 302
Views of the *Herald* on Cora's Act..... 288
"Old Bolling Green": Anecdote of..... 199
"Old Gray Eagle": Baker So Titled..... 244
Olmstead, Thos. C. D.: One of the Cora Jury..... 289
Perley, D. W.: Challenges Senator Broderick to a Duel 64
Pericles on the Grandeur of Athens.....32–33
Politics: Pursuit of..... 53
Piper, William A.: Foreman of the Cora Jury..... 289
Ranlett, Wm. H.: Lone Mountain Cemetery Association 322
Raymond, Henry J.: Allusion to..... 227
Reply to Benjamin..... 135

236-7

Index.

Reply to Breckinridge 243
Revolution of 1688 173
Richardson, Wm. H., U. S. Marshal: Killing of 287
"Right and Duty are Majestic Ideas" 140
San Francisco Proclaimed to be in Insurrection 291
"Science": Apostrophe to 22
Scott, Rev. W. A.: At Lone Mountain Dedication 322
Seward, Wm. H.: Allusions to 99, 121, 122
Shields, General James: Disabled at Cerro Gordo 244
Slavery in Southern States 210, 217
Soulé, Frank: Poet at Lone Mountain Dedication 322
Southern States, The: People of 113–114
Stanly, Edward: Eulogy of Baker 65, 228
Stowell, Wm. H.: One of the Cora Jury 289
"Tarpeian Rock, The": Baker's Allusion 244, 261
Terry, David S.: Duel with Broderick 64
"To a Wave": Poem by Baker 283
Tribute to "Freedom" 125
" " the Legal Profession 306
Trumbull, Lyman: Allusions to 132, 243
Vail, Chas. H.: One of the Cora Jury 289
Victor Emanuel: Allusion to 115
Victoria, Queen: " " 115
Vigilance Committee of 1856 ..... 287, 291
War 23
Webster, Daniel: Views on Secession ... 146, 147, 155, 221, 223
Weller, John B.: Defeats Broderick for Senator 63
Whig Party, The: Allusions to 94, 95, 99, 243
Williams, Rev. A.: Baker's Lone Mountain Address .322, 328
Wilkes, Geo.: Notices of Baker and Broderick ... 65, 275, 276
Yerba Buena Cemetery: Site of New City Hall 322

NEWBEGIN'S
OPPOSITE

UNIVERSITY OF ILLINOIS-URBANA
3 0112 041854859